



Office of the City Manager

CONSENT CALENDAR

May 20, 2025

To: Honorable Mayor and Members of the City Council
From: Paul Buddenhagen, City Manager
Submitted by: Jennifer Louis, Chief of Police
Subject: 2024 Police Equipment & Community Safety Ordinance Annual Report

RECOMMENDATION

Adopt a Resolution approving the 2024 Police Equipment and Community Safety Ordinance Annual Report.

FISCAL IMPACTS OF RECOMMENDATION

The fiscal impacts are limited to staff time required for reporting and training associated with the use of equipment listed in the report.

BACKGROUND

On May 11, 2021, the City of Berkeley adopted the Police Equipment and Community Safety Ordinance (BMC Chapter 2.100, Ordinance No. 7,760-N.S.). This ordinance requires the Berkeley Police Department (BPD) to submit an annual report detailing the use of specified controlled equipment for Council approval "for as long as the Controlled Equipment is available for use" (BMC § 2.100.050).

Pursuant to BMC § 2.100.050(B), this annual report must first be provided to the Police Accountability Board (PAB) for review. Within 60 days of submission, the PAB is required to place the report on an agenda and determine, based on the report, whether each piece of controlled equipment reported on has complied with the standards for approval (BMC § 2.100.040). After the review period by the PAB, BPD must submit the annual report to the City Council. The PAB and Council have approved annual controlled police equipment reports for the same set of equipment since the enactment of the ordinance, covering the reporting periods of 2021, 2022, and 2023. This item fulfills that requirement for the 2024 reporting period.

CURRENT SITUATION AND ITS EFFECTS

On February 27, 2025, BPD submitted the 2024 Annual Report to the Office of the Director of Police Accountability (ODPA) and PAB. The PAB agendaized the 2024 Annual Report for discussion at its regular meeting on March 5, 2025. Following the meeting discussion, the PAB did not make a final recommendation on the report and instead requested additional records from BPD about two specific pieces of controlled equipment (Light/Sound Distraction Devices and the Long-Range Acoustic Device). No concerns about the department's other controlled equipment were noted. BPD responded to the PAB's request, providing detailed explanations about how the specific technologies were used and offered the PAB an opportunity to meet with the Department's subject matter expert for deeper insights into training, policy, and deployment considerations for those pieces of equipment. The department further explained that collecting and reviewing the extensive additional information requested (including radio traffic recordings, written reports, and BWC video) presented significant challenges to staff time and was considered overly burdensome, particularly given the late request by the PAB for further information and the ordinance's requirement for timely submission of the annual report to the City Council. On April 23, 2025, at the PAB regular meeting, the board voted to inform council of their inability to fulfill their audit function without access to additional records. On May 1, 2025, the Police Accountability Board (PAB) Chair submitted a formal response from the PAB regarding the Police Equipment and Community Safety Ordinance Annual Report. That correspondence is provided here. (Attachment 3)

We note that last year, the PAB discussed requesting that additional information be included in BPD's annual report that is submitted to the City Council to assist them in their review process. BPD expressed openness to that idea and engaged in further discussions with the Board on that matter. The PAB has not yet articulated what information they would like the Police Department to collect and add to the report, but the Department continues to be open to receiving the PAB's recommendation. BPD collected information through the last reporting period and subsequently prepared this annual report with the level of detail consistent with past practices and in accordance with the requirements established by the ordinance.

BPD submits this report to meet its obligation under the ordinance, acknowledging the review process undertaken by the PAB. BPD affirms that the controlled equipment was utilized in accordance with approved policies and the standards set forth in BMC § 2.100.040 during the 2024 reporting period.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSON

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

ATTACHMENTS

1. Resolution
2. 2024 Police Equipment and Community Safety Ordinance Annual Report
3. Letter submitted by Police Accountability Board (PAB) regarding the Berkeley Police Department's (BPD) 2024 Police Equipment and Community Safety Ordinance Annual Report

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

ANNUAL REPORTING AND IMPACT STATEMENTS: 2024 POLICE EQUIPMENT
AND COMMUNITY SAFETY ORDINANCE

WHEREAS, the Berkeley City Council adopted Ordinance No. 7,760-N.S., the Police Equipment and Community Safety Ordinance (Berkeley Municipal Code Chapter 2.100) on May 11, 2021; and

WHEREAS, BMC § 2.100.050 mandates an annual report regarding the use of controlled equipment that the Berkeley Police Department (BPD) possesses, covering the 2024 calendar year; and

WHEREAS, per BMC § 2.100.050(B), BPD submitted the 2024 Annual Report to the Police Accountability Board (PAB) for review on February 27, 2025; and

WHEREAS, the PAB placed the 2024 Annual Report on its agenda for March 5, 2025, initiating its review process as required by the ordinance, which included subsequent requests for information and responses between the PAB and BPD; and

WHEREAS, the Police Accountability Board conducted its review of the 2024 Annual Report as required, though no formal recommendation was issued prior to the Council submission deadline; and

WHEREAS, BMC § 2.100.050(B)(3) requires BPD, after review by the PAB, to submit the Annual Report to the City Council; and

WHEREAS, the BPD has submitted the 2024 Annual Report to the City Council in fulfillment of this requirement.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the Berkeley Police Department's 2024 Police Equipment and Community Safety Ordinance Annual Report.

2024 Police Equipment and Community Safety Ordinance Annual Report

Contents

Ordinance Background and Objectives	3
Operational Context	5
2024 Equipment Deployment and Utilization	6
Deployment Summary and Statistics.....	17
Equipment Profiles	19
Lexipol Policy Framework.....	21

Ordinance Background and Objectives

On May 11, 2021 the Berkeley City Council passed Ordinance NO. 7,760-N.S., the Police Equipment and Community Safety Ordinance. Section 2.100.050 of the ordinance mandates an annual report for the deployment of specific equipment the Berkeley Police Department possesses.

The annual report on the controlled equipment shall contain the following information per Ordinance NO. 7,760N.S.:

- (a) Product descriptions for controlled equipment and inventory numbers of each product in the Police Department's possession.
- (b) A summary of how controlled equipment was used. For the purposes of annual reports, "use" of equipment shall refer to equipment that is Deployed, not to transfers of location or placement of equipment inside Department vehicles.
- (c) If applicable, a breakdown of where Controlled Equipment was used geographically by individual police areas. For each police area, the Police Department shall report the number of days or instances in which Controlled Equipment was used and what percentage of those daily reported uses were authorized by warrant and by non-warrant forms of court authorization.
- (d) A summary of any complaints or concerns received concerning Controlled Equipment.
- (e) The results of any internal audits, any information about violations of Controlled Equipment Use Policies, and any actions taken in response.

Section 2.100.020 (D) defines deployment as "to utilize or employ Controlled Equipment for a deliberate purpose in the presence of members of the public during management or control of crowds, during any Special Response Team deployment, or to affect some response from members of the public during any other operation or critical response. 'Deployed' does not mean an officer merely wearing a piece of Controlled Equipment on their belt or elsewhere on their person." In other words, deployment refers to the visible display of equipment intended to prompt a public response. The equipment need not be actively used (for example, a less-lethal projectile does not have to be fired and strike a suspect) for the deployment to be recorded. The table on page 5 of this report reflects both deployments and equipment utilization, as required by the ordinance.

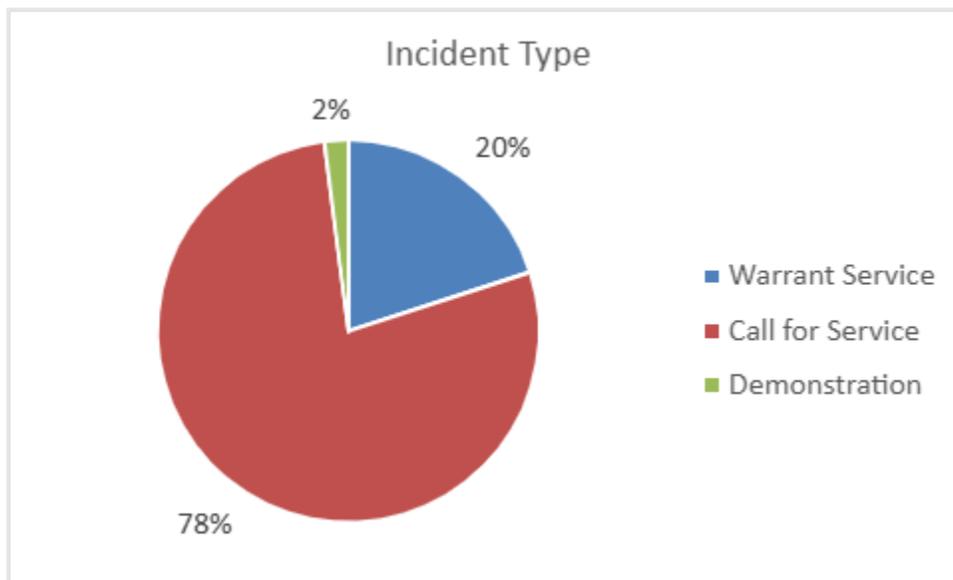
The Blue Team and Equipment Ordinance systems record all equipment utilizations and deployments, allowing the Police Department to meet the ordinance's requirements. The Blue Team system tracks all uses of force and is managed by the Internal Affairs Bureau. This system complements the Equipment Ordinance system, which records deployments for all equipment covered by the ordinance.

Operational Context

The Police Department responded to 61,666 calls for service in 2024. Of the 61,666 calls received, 50 of them resulted in the deployment of military equipment (0.08% of all calls), and only 1 (0.0016%) resulted in the use of “less-lethal” munitions. For details on these systems and other military equipment refer to page 19 or the Impact Statements located on the Berkeley Police Department website.

The table on page 4 lists all 50 equipment deployment incidents recorded by the Blue Team and Equipment Ordinance systems. Each row represents an incident in which a specific piece of equipment was deployed or utilized. The table also documents 10 instances where the Special Response Team conducted arrest and/or search warrants in cases involving a violent suspect. Equipment not listed in the table was neither deployed nor used in 2024.

Of the 50 incidents, 39 were responses to calls for service from community members, 10 involved warrant service, and 1 occurred in preparation for a scheduled protest. Information provided by victims, witnesses, and community members guides police dispatchers, while officers and supervisors take these observations into account when deciding on equipment deployment.



2024 Equipment Deployment and Utilization

Each incident is listed in chronological order. Out of the 50 incidents in which military equipment was deployed, 8 involved active use of equipment. Equipment that was actively used is highlighted in yellow.

#	<u>Equipment Deployed</u>	<u>Summary of Deployment</u>	<u>Beat</u>
1.	36" batons, FN 303 Launcher, Light/Sound Distraction Device, 40MM Launcher	For a scheduled protest at a public park, the Special Response Team deployed 36-inch batons, an FN 303 launcher, light/sound distraction devices, and a 40MM launcher. None of the equipment was used.	6
2.	40MM Launcher	Officers responded to a call regarding an individual reportedly carrying a knife and a pole. Upon arrival they observed the subject with a knife. A 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	5
3.	40MM Launcher	Responding to a reported assault, officers encountered an agitated subject. A 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	4
4.	40MM Launcher	Officers responded to a felony domestic violence call at a residence where the suspect initially refused to come outside. Upon entry, a patrol rifle and a 40MM launcher were deployed but not used, and the subject complied and was detained without incident.	10
5.	Patrol Rifle	Officers from Richmond PD pursued armed robbery suspects into Berkeley. A patrol rifle was deployed by a BPD officer but not used, and both subjects complied and were detained without incident.	13
6.	40MM Launcher	A patrol officer encountered a man carrying a weapon who then ran and fled on foot. Additional officers arrived and deployed a 40MM launcher but did not use it. The subject complied and was detained without incident; a three-and-a-half-foot metal bar with a taped handle was recovered.	13

7.	FN 303 Launcher, Light/Sound Distraction Device, LRAD, Patrol Rifle, 40MM Launcher, Precision Rifle	The Special Response Team responded to a suspect who had threatened to kill himself and others. SRT used an LRAD to call him out, and threw light/sound distraction devices in the yard. The subject complied and was detained without incident. All other listed equipment was deployed but not used.	Outside of Berkeley
8.	Light/Sound Distraction Device, 40MM Launcher, FN 303 Launcher,	Officers responded to a call about a man who had been shot and was bleeding. The suspect was last seen in a tent. After announcements and deployment of a light/sound distraction device along with other equipment (40MM launcher and FN 303 launcher), the subject emerged, complied, and was detained without incident.	13
9.	Patrol Rifle	Following a report of a man brandishing a handgun, officers arrived with a patrol rifle deployed but not used. The subject complied and was detained without incident.	9
10.	40MM Launcher	Officers responded to a report of an individual threatening self-harm and harm to others. A 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	5
11.	40MM Launcher, FN 303 Launcher	Officers responded to reports of a shirtless man on Telegraph Avenue with chest wounds, carrying a sickle and a wooden stick. Both the 40MM and FN 303 launchers were used, and the subject complied and was detained without incident.	5
12.	40MM Launcher	Officers responded to a report of a shirtless man on Shattuck Avenue carrying a sharpened stick. A 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	4
13.	Patrol Rifle	Officers responded to a report of a suspected rapist fleeing a residence. A patrol rifle was deployed but not used, and the subject complied and was detained without incident.	10
14.	Patrol Rifle	During a burglary in progress, officers encountered two suspects. A patrol rifle was deployed but not used, and both subjects complied and were detained without incident.	7
15.	Patrol Rifle	In response to a felony vandalism call involving a death threat, officers located the suspect hiding in bushes. A patrol rifle was deployed but not used, and the subject complied and was detained without incident.	11

16.	Patrol Rifle	Officers responded to a tip about a potentially armed man in a vehicle. A patrol rifle was deployed but not used, and the subject complied and was detained without incident.	5
17.	Patrol Rifle	Officers responded to reports of an individual carrying what appeared to be a rifle and pistol along University Avenue. A patrol rifle was deployed but not used, and the subject complied and was detained without incident.	4
18.	Patrol Rifle, 40MM Launcher	Officers responded to a report of a man allegedly carrying a gun. A patrol rifle and a 40MM launcher were deployed but not used, and the subject complied and was detained without incident.	5
19.	40MM Launcher, Patrol Rifle	For a felony domestic violence call with a suspect inside the residence, officers deployed a 40MM launcher and a patrol rifle but did not use either. The subject complied and was detained without incident.	1
20.	FN 303 Launcher, Light/Sound Distraction Device, Patrol Rifle, 40MM Launcher	The Special Response Team responded to arrest a suspect connected to a shooting. Officers spotted him walking down the street and used a light/sound distraction device to distract him. The subject complied and was detained without incident. All other listed equipment was deployed but not used,	Outside of Berkeley
21.	Patrol Rifle, 40MM Launcher, Precision Rifle	Officers responded to a violent armed robbery involving multiple suspects. A patrol rifle, 40MM launcher, and precision rifle were deployed but not used, and all subjects complied and were detained without incident.	5
22.	FN 303 Launcher	During a mutual aid operation addressing a barricaded burglary suspect, the FN 303 launcher was deployed but not used, and the subject complied and was detained without incident.	Outside of Berkeley
23.	Patrol Rifle	Officers responded to a report of an armed individual near an intersection. After the suspect fled into a parking garage, patrol rifles were deployed but not used. The subject eventually complied and was detained without incident.	4
24.	40MM Launcher	Following a disturbance at a local restaurant—in which the suspect became agitated, threatened the business owner, and was seen brandishing a knife and fork—officers arrived and	3

		deployed a 40MM launcher but did not use it. The subject complied and was detained without incident.	
25.	40MM Launcher	Officers responded to a disturbance call involving an individual with a known history of assault. A 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	5
26.	FN 303 Launcher, LRAD, Patrol Rifle, Light/Sound Distraction Device	Officers responded to a barricaded suspect situation in which the individual refused to exit an RV. Officers gave voice commands through the LRAD, and used light/sound distraction devices. Patrol rifles and less-lethal launchers were deployed but were not used. The subject complied and was detained without incident.	Outside of Berkeley
27.	40MM Launcher	Officers responded to a report of a person locked in a basement woodshop with a firearm who was threatening suicide. A 40MM launcher was deployed but not used, and the situation was resolved without incident.	3
28.	Patrol Rifle	Responding to a reported fight involving a suspected armed individual, officers deployed a patrol rifle but did not use it. The subject complied and was detained without incident.	14
29.	FN 303 Launcher, Light/Sound Distraction Device, LRAD, Patrol Rifle, 40MM Launcher, Precision Rifle	SRT served a high-risk warrant for shooting suspects. Officers used multiple light/sound distraction devices. The subject complied and was detained without incident.	9
30.	40MM Launcher	Officers responded to a reported restraining order violation involving a subject allegedly carrying a large knife. A 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	12
31.	40MM Launcher	After a subject with prior history of assault made more than 25 false calls over 24 hours, officers responded and deployed a 40MM launcher but did not use it. The subject complied and was detained without incident.	9
32.	40MM Launcher	During a tense family dispute where one individual was suspected of carrying a knife, a 40MM launcher was deployed but not used. The subject complied and was detained without incident.	13

33.	40MM Launcher	Officers responded to a trespassing call in a residential backyard, in which the suspect had reportedly assaulted the victim. A 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	11
34.	Patrol Rifle	While conducting a search warrant for a homicide suspect who attempted to flee, officers deployed a patrol rifle but did not use it. The subject complied and was detained without incident.	Outside of Berkeley
35.	Patrol Rifle, 40MM Launcher	In response to a reported homicide involving a firearm, officers deployed a patrol rifle and 40MM launcher but did not use either. The subject complied and was detained without incident.	13
36.	Patrol Rifle	During a high-risk stop in a homicide investigation, officers deployed a patrol rifle but did not use it. The subject complied and was detained without incident.	13
37.	40MM Launcher	Officers conducted a welfare check after a subject threatened to kill his siblings. A 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	4
38.	40MM Launcher	Officers responded to a report regarding a short-term rental occupant who refused to leave a multi-unit property. The suspect had a felony warrant for attempted homicide. A 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	6
39.	40MM Launcher	A man on parole for weapons possession barricaded himself in an office, and officers deployed a 40MM launcher but did not use it. The subject complied and was detained without incident.	6
40.	FN 303 Launcher	After responding to a domestic violence call where the suspect refused to leave his room, officers deployed an FN 303 launcher but did not use it. The subject complied and was detained without incident.	5
41.	40MM Launcher	Following a report from an ER regarding an individual with a history of assault who punched a visitor, officers deployed a 40MM launcher but did not use it. The subject complied and was detained without incident.	8

42.	Patrol Rifle, 40MM Launcher	Responding to a call about an assault at an apartment, officers deployed a patrol rifle and a 40MM launcher but did not use either. The subject complied and was detained without incident.	4
43.	40MM Launcher	Officers responded to a situation involving an individual displaying a knife and demanding that others end his life. A 40MM launcher was deployed but not used, and the situation was resolved without incident.	7
44.	Patrol Rifle, 40MM Launcher	During an SRT operation in Antioch related to a shooting incident during a vehicle theft interruption, a patrol rifle and 40MM launcher were deployed but not used. The subject complied and was detained without incident.	Outside of Berkeley
45.	FN 303 Launcher, Light/Sound Distraction Device, Patrol Rifle, 40MM Launcher,	While conducting a high-risk warrant service in a burglary case, officers deployed the listed equipment but did not use any of it. The subject complied and was detained without incident.	3
46.	Patrol Rifle, LRAD, Light/Sound Distraction Device, 40MM Launcher	Officers conducted a warrant service operation involving a suspect connected to multiple gunshots in Berkeley. Officers gave voice commands through the LRAD, and used light/sound distraction devices. The other listed equipment was deployed but not used, and the subject complied and was detained without incident.	Outside of Berkeley
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
48.	FN 303 Launcher, Patrol Rifle, 40MM Launcher	Following a shooting incident in which two suspects exchanged gunfire, SRT conducted a warrant for their arrest. Officers deployed the listed equipment but did not use it. The subject complied and was detained without incident.	5
49.	Light/Sound Distraction Device, Patrol Rifle, 40MM Launcher	In response to a domestic violence and assault case involving a deadly weapon, SRT carried out a surveillance and stop operation in Oakland. The listed equipment was deployed but not used, and the subject complied and was detained without incident.	Outside of Berkeley

50.	40MM Launcher	In response to a disturbance that occurred during a move-out inspection in which a suspect threatened a victim with a knife, a 40MM launcher was deployed but not used, and the subject complied and was detained without incident.	4
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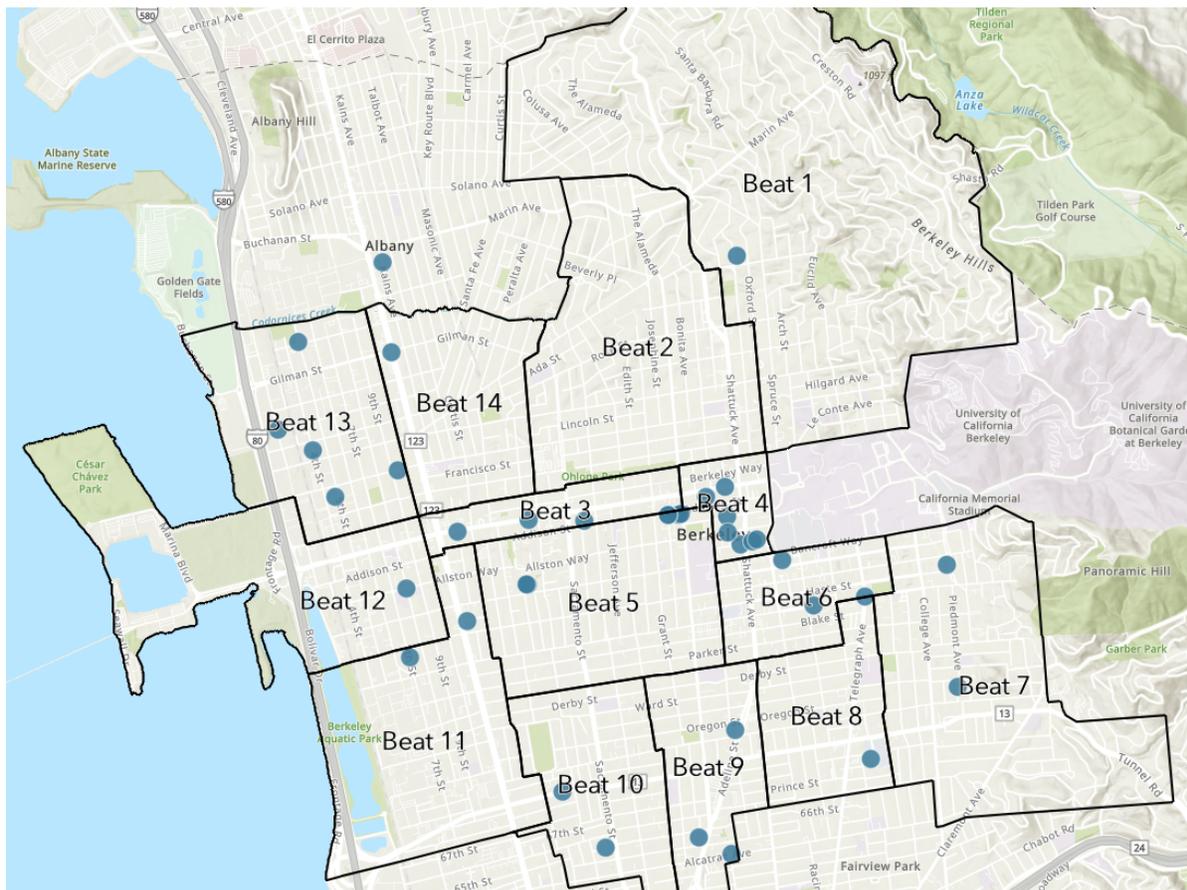
Deployment Statistics

The table below displays the total number of deployments for each specified piece of equipment in 2024. Note that different types of equipment may be deployed in a single incident, and the same piece of equipment may be deployed by multiple officers during one incident.

Equipment	Number of Deployments
<i>Patrol Rifle</i>	24
<i>40MM Single Launcher</i>	35
<i>40MM LTL Multi-Launcher</i>	0
<i>FN 303 Launcher</i>	11
<i>FN Pava Impact Projectile</i>	0
<i>Oleoresin Capsicum Spray</i>	1
<i>Chlorobenzylidene Malononitrile and Oleoresin Capsicum</i>	0
<i>Precision Rifle</i>	3
<i>Light/Sound Diversionary Device</i>	9
<i>Long Range Acoustic Device</i>	4
<i>36" Batons</i>	1
<i>Barret Model 99</i>	0

No additional internal audits were conducted beyond those performed to gather and confirm data for this report. No violations of equipment use were identified, and no complaints regarding the above-listed equipment were submitted to the department.

A map below shows the locations of the 42 equipment deployments in Berkeley, with 8 deployments occurring in other Bay Area cities.



Equipment Inventory and Descriptions

Below is a list and inventory of the reportable equipment under the city ordinance:

- Patrol Rifle (96)
 - Associated .223 duty and training rounds (61,450)
- Less Lethal single 40MM launcher (20)
- Less Lethal Milkor LTL 40 MM multi-launcher (2)
 - Associated 40mm rounds (450)
- Less Lethal FN 303 Launcher (8)
 - Associated FN rounds (5,813)
 - Associated FN Pava rounds (150)
- Oleoresin capsicum (handheld OC spray) (182)
- Chlorobenzylidene Malononitrile and Oleoresin capsicum/ tear gas (300)
- Remington 700 Precision Rifle (6)
 - Associated .308 rounds (3,000)
- Light/sound distraction device (88)
- Long Range Acoustic Device (LRAD) (2)
- 36" batons (195)
- Barret Model 99 Precision Rifle (1)
 - Associated .50 rounds (54)

The following are product descriptions of the military equipment the Berkeley Police Department possesses:

Patrol Rifle

The "M4" was developed and produced for the United States government by Colt Firearms and is based on the original Armalite Rifle (AR) patent purchased by Colt in 1959. Although Colt owns the trademarked name "M4," several other manufacturers offer similar firearms under various model names. The M4 and its variants fire 5.56×45 mm NATO (and .223 Remington) ammunition and are gas-operated, magazine-fed firearms with barrel lengths ranging from 11.5" to 16".

The current BPD rifle ammunition is the .223 Remington—a rimless, bottlenecked cartridge developed in 1957 by Remington Arms and Fairchild Industries. One of the most popular cartridges, the .223 Remington is used by a wide range of semi-automatic and manual-action rifles, as well as handguns. While the military uses the similar 5.56×45 mm NATO cartridge, BPD employs the more common civilian .223 Remington for all training and duty purposes.

Penn Arms 40MM Single Launcher & Milkor LTL Multi-Launcher

The 40 mm impact projectile was developed as an alternative to the 12-gauge bean bag round and other less focused less-lethal options. Early 12-gauge bean bag round designs had unpredictable flight patterns and could cause significant unintended injuries. The 40 mm foam baton round was created as a direct-fire projectile intended to minimize

such risks. The Berkeley Police Department currently uses the CTS 4557 foam baton projectile and the Penn Arms L-140 single-shot launcher.

FN 303

Developed in 2003 by Fabrique Nationale de Herstal as a less-lethal option, the FN 303 is based on a concept from Monterey Bay Corporation. The development team included designers and researchers from two paintball-related companies. The FN 303 uses compressed air to propel a .68-caliber projectile, similar to those used in manufactured paintball guns.

Oleoresin capsicum (OC spray)

First Defense manufactures OC sprays in various sizes. Oleoresin capsicum is the most widely used chemical agent among law enforcement and the general public. It has a pungent, irritating pepper odor and is classified as an inflammatory agent. In addition to its effectiveness on humans, OC-based agents are typically effective on animals. In liquid form, OC can appear clear, amber, or dark red, depending on the manufacturer, as it is mixed with various carrier solutions.

Chlorobenzylidene Malononitrile (CS) & (OC)

Chlorobenzylidene malononitrile, commonly known as CS, is one of the most widely used tear gases. It can be delivered as a liquid, gas, or solid and is designed to produce temporary discomfort by being vaporized or otherwise dispersed in the air. Law enforcement agencies rely on CS to manage combative suspects, control crowds, and handle barricaded subjects without resorting to higher levels of force. CS can be deployed via aerosol (the most common method), fogging, pyrotechnics, or blast expulsion; however, all methods are influenced by environmental factors such as wind, rain, temperature, and proximity. Under standard conditions, CS forms a white crystalline substance with low vapor pressure and poor water solubility.

Remington 700 Precision Rifle

The Remington 700 is a series of bolt-action rifles designed in 1962 by Remington Arms Company. The "700" designation refers to multiple models with varying parts, barrel lengths, stocks, and other components. The Precision Rifle model has long been used by law enforcement and remains an industry standard. The Berkeley Police Department employs a custom Remington 700 action chambered in the common .308-caliber round, featuring a 20-inch barrel, an Accuracy International chassis/stock, a Nightforce 3-15x magnified optic, and a bipod.

Light/Sound Distraction Device

Also known as diversionary, noise/flash, or light/sound devices, Light/Sound Distraction Devices have been available for about 40 years. They serve as safe and effective tools for law enforcement during challenging tactical incidents. When activated, these devices produce loud noise, heat, and intense light to create an effective diversion.

Long Range Acoustic Device (LRAD)

The LRAD is a high-intensity, directional acoustical array that provides long-range, crystal-clear communication. Essentially, it functions as a powerful loudspeaker.

36" Baton

The Berkeley Police Department issues a fixed-length, straight baton with a knurled polycarbonate grip for crowd control. The baton measures 36 inches in length, 1.25 inches in diameter, and weighs approximately 1.64 pounds. Polycarbonate is a durable thermoplastic that resists splintering and heat.

Barrett Model 99 Precision Rifle

The Barrett Model 99 is a single shot, bolt action .50caliber rifle introduced in 1999. It is intended for emergency situations where there is a high potential for violence.

Lexipol Policies

Patrol Rifle

- Policy 300 (Use of Force)
- Policy 349 (Tactical Rifle Operator Program)

40MM single launcher

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

40MM LTL multi-launcher

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

FN 303 Launcher & FN Pava rounds

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

Chlorobenzylidene Malononitrile and Oleoresin Capsicum (canister and spray)

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

Precision Rifle

- Policy 300 (Use of Force)
- Policy 354 (Precision Rifle)

Light/Sound Diversionary Device

- Policy 353 (Diversionary Device)

Long Range Acoustic Device

- Policy 707 (Long Range Acoustical Device)

36" batons

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)
- Policy 428 (First Amendment Assemblies)

Barret Model 99

- Policy 300 (Use of Force)
- Policy 354 (Precision Rifle)



Joshua Cayetano
Chair of the Police Accountability Board
JCayetano@berkeleyca.gov

May 1, 2025

VIA ELECTRONIC MAIL [Email]

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

Re: Impediments to PAB's Mandated Review of the 2024 Controlled Equipment Report

Dear Mayor and Councilmembers,

We write to inform you that the Police Accountability Board (PAB) has been prevented from fulfilling a core oversight function prescribed by Berkeley Municipal Code (BMC) Section 2.100.050: the meaningful review of Berkeley Police Department's (BPD) 2024 Controlled Equipment Report (the Report).¹

Under the Police Equipment and Community Safety Ordinance (the Ordinance), the PAB is required to determine whether BPD's use of controlled equipment complies with the standards outlined in Section 2.100.040.² These standards ensure that the use of militaristic equipment is not excessive or gratuitous, respects the community's civil liberties, and does not discriminate on the basis of a protected class. The Ordinance requires BPD to submit the Report only after the PAB has conducted its review and directs BPD to indicate the PAB's "approval or [BPD's] lack of compliance for each piece of Controlled Equipment."³ If the PAB identifies BPD's use of controlled equipment does not comply with the Ordinance, the PAB must submit a recommendation to Council to modify or revoke that particular equipment's use policy "in a manner that will resolve the lack of compliance."⁴

¹ BMC 2.100.050, "Reports on the Use of Controlled Equipment," <https://berkeley.municipal.codes/BMC/2.100.050>.

² See BMC 2.100.050(B)(1) (requiring the PAB to "determine, based on the report, whether each piece of Controlled Equipment reported on has complied with the standards for approval set forth in Section 2.100.040"), <https://berkeley.municipal.codes/BMC/2.100.050>; BMC 2.100.040(C) (describing the criteria that the PAB must consider), <https://berkeley.municipal.codes/BMC/2.100.040>.

³ BMC 2.100.050(B)(3), <https://berkeley.municipal.codes/BMC/2.100.050>.

⁴ BMC 2.100.050(B)(2), <https://berkeley.municipal.codes/BMC/2.100.050>.

Despite a timely request for relevant records and documentation to support the PAB's review,⁵ BPD declined to provide the requested records, preventing the PAB from conducting the ordinance-mandated review. The requested records included body-worn camera footage and radio transmissions that were directly relevant and essential to analyze compliance with the standards set forth in Section 2.100.040. For example, body worn camera footage would allow the PAB to make an independent determination that, for a particular use, "there [was] no practicably available alternative equipment which is not Controlled Equipment that [was] sufficient for the purposes."⁶ As a result, the PAB is unable to certify that BPD's use of controlled equipment complied with the law.

When it refused the PAB's records request, BPD expressed concerns about resource constraints, privacy considerations, and the perceived limitations of the Ordinance's scope. We address each in turn. *First*, the PAB is very aware of the administrative burden that various reporting requirements place on BPD. To minimize the administrative burden, the PAB only requested records relevant to a small sample of the fifty (50) instances identified in the Report.⁷ In any event, administrative burdens are not a valid excuse to evade meaningful review, mandated by City ordinance. *Second*, members of the PAB are (1) privy to confidential records and (2) sworn to "maintain the confidentiality of the personnel files of sworn employees of the Police Department and all other matters that are confidential under state and federal law."⁸ The PAB is able to submit a report to Council outlining its findings without breaking its oath of confidentiality. Indeed, access to records like body worn camera footage are the only way for the PAB to certify compliance with the standards set forth in Section 2.100.040. *Third*, the Ordinance plainly states the PAB's authority to review uses of controlled equipment.⁹ If BPD disagrees with the plain meaning of the Berkeley Municipal Code, it should request guidance from the City Attorney, not unilaterally refuse a valid request.

We wish to underscore that this is not merely an administrative or procedural matter. The Ordinance was adopted in direct response to widespread public demand for greater transparency, accountability, and independent oversight in law enforcement operations.¹⁰ It reflects the City's commitment to ensure that controlled equipment is used only in ways that respect civil rights, safeguard public safety, and avoid disproportionate impacts on marginalized communities. We acknowledge BPD's willingness to engage in dialogue and its offer of generalized briefings. However, the PAB cannot independently evaluate compliance or make informed determinations without access to the underlying materials that substantiate BPD's descriptions—a point emphasized by the Director of Police Accountability on the PAB's behalf during the Police

⁵ BPD submitted the Report to ODPa on February 27, 2025. The PAB agendaized and discussed the Report at its March 5, 2025 meeting. ODPa requested the records from BPD on March 7, 2025.

⁶ BMC 2.100.040(C)(1)(a), <https://berkeley.municipal.codes/BMC/2.100.040>.

⁷ The PAB requested records related to 5 incidents, all pertaining to the use of Light-Sound Diversionary Devices (LSDDs) and the Long Range Acoustic Device (LRAD). March 5, 2025 PAB Agenda (p. 61), https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-03-05%20PAB%20Regular%20Meeting%20Packet%20-%20Amended_Final.pdf.

⁸ Oath of Office, April 23, 2025 PAB Agenda (p. 2), <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-17%20PAB%20Regular%20Meeting%20Packet.pdf>.

⁹ BMC 2.100.050(B)(2), <https://berkeley.municipal.codes/BMC/2.100.050>.

¹⁰ Aman, L. (May 28, 2021). Berkeley leaders demand more data about 'militaristic' police equipment. *Berkeleyside*. <https://www.berkeleyside.org/2021/05/28/berkeley-leaders-demand-more-data-about-militaristic-police-equipment>

Department's 2022 report presentation to Council,¹¹ which he echoed in a 2024 memo to the PAB regarding the 2023 report,¹² and was reiterated by former Chair Moore's 2024 letter to City Council on the matter.¹³ Despite these repeated efforts to elevate the issue of a need for access to records, the Board continues to face barriers that obstruct its Charter-mandated oversight responsibilities.

We respectfully urge the Council to support measures that ensure timely and complete cooperation with lawful requests made by the Police Accountability Board in the course of its independent oversight duties. We respectfully caution the Council on accepting this year's (and any future) Controlled Equipment Report from BPD until it has complied with the PAB-mandated review codified in the Police Equipment and Community Safety Ordinance. We remain committed to constructive engagement and welcome the opportunity to work collaboratively with all City departments, including the Berkeley Police Department, to uphold the principles of transparency, accountability, and community safety.

Respectfully,

Joshua Cayetano

Joshua Cayetano, Chair
Police Accountability Board

Cc: Paul Buddenhagen, City Manager
Farimah Brown, City Attorney
David White, Deputy City Manager
Jennifer Louis, Chief of Police
Jen Tate, Deputy Chief of Police
Hansel Aguilar, Director of Police Accountability

¹¹ City of Berkeley. (June 6, 2023). June 6, 2023 Regular City Council Meeting [Video]. Berkeley City Council. https://berkeley.granicus.com/player/clip/5062?publish_id=18eb84a2-0554-11ee-95dd-0050569183fa&redirect=true (Segment: 1:16:34–1:18:08)

¹² Gecan, A. N. (March 29, 2024). Flash-bangs, launchers: BPD brought out specialized gear less often in 2023, but used it more. Berkeleyside. <https://www.berkeleyside.org/2024/03/29/berkeley-police-department-equipment-report>

¹³ City of Berkeley. (June 4, 2024). City Council Regular Meeting: Agenda and Reports (Consent Calendar, Item 31, pp. 245–246). <https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-06-04%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf>