



**BERKELEY CITY COUNCIL PUBLIC SAFETY COMMITTEE
REGULAR MEETING**

**Monday, November 18, 2024
10:30 AM**

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

Committee Members:

Councilmembers Terry Taplin, Ben Bartlett, and Igor Tregub
Alternate: Councilmember Mark Humbert

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. All Committee meetings are recorded.

To access the meeting remotely use this URL <https://cityofberkeley-info.zoomgov.com/j/1616399725>. To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter **Meeting ID: 161 639 9725**. To provide public comment, press *9 and wait to be recognized by the Chair. To submit a written communication for the Committee’s consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

California Government Code Section 84308 (Levine Act) Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over \$250 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than \$250 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.

AGENDA

Roll Call

Public Comment on Non-Agenda Matters

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - July 15, 2024

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Discussion Item: City's Progress on Reimagining Public Safety

From: Councilmember Taplin

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

3. Discussion Item: City's Approach to Traffic Enforcement

From: Councilmember Taplin

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

4. Discussion Item: City's Progress on Vision Zero Action Plan

From: Councilmember Taplin

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

5. Community Safety Plans for a Safe and Resilient Berkeley

From: Councilmember Hahn (Author), Councilmember Tregub (Co-Sponsor)

Referred: October 15, 2024

Due: March 24, 2025

Recommendation: Refer to the City Manager to create four strategic, single-subject Community Safety Plans to effectively reduce Gun Violence, Sexual Assault, Retail Theft, and Traffic Violence. Return Plans to the City Council for review and approval.

Financial Implications: See report.

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

6. Resolution: Opposition to Police Brutality and Use of Force on Nonviolent Protesters

From: Councilmember Harrison (Author)

Referred: October 15, 2024

Due: March 24, 2025

Recommendation: Adopt a Resolution reaffirming the City of Berkeley's opposition to and condemning police brutality towards nonviolent protesters and discouraging use of "less-lethal" weapons for crowd control.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Items for Future Agendas

- **Requests by Committee Members to add items to the next agenda**

Adjournment

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*Written communications addressed to the Public Safety Committee and submitted to the City Clerk Department will be distributed to the Committee in advance of the meeting and retained as part of the official record.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900.*



### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

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I hereby certify that the agenda for this meeting of the Standing Committee of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on Thursday, November, 14, 2024.



Mark Numainville, City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@berkeleyca.gov.



**BERKELEY CITY COUNCIL PUBLIC SAFETY COMMITTEE
REGULAR MEETING MINUTES**

**Monday, July 15, 2024
10:30 AM**

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

Committee Members:

Councilmembers Terry Taplin, Ben Bartlett, and Igor Tregub
Alternate: Councilmember Mark Humbert

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To submit a written communication for the Committee’s consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

Written communications submitted by mail or e-mail to the Public Safety Policy Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

MINUTES

Roll Call 10:34 a.m.

Present: Taplin, Tregub

Absent: Bartlett

Councilmember Bartlett present at 10:37 a.m.

Public Comment on Non-Agenda Matters – None.

Election of Chairperson

Action: M/S/C (Tregub/Taplin) to elect Councilmember Taplin as Chairperson of the Public Safety Policy Committee.

Vote: Ayes – Taplin, Tregub; Noes – None; Abstain – None; Absent – Bartlett.

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - September 18, 2023

Action: M/S/C (Taplin/Tregub) to approve the September 18, 2023 minutes.

Vote: Ayes – Taplin, Tregub; Noes – None; Abstain – None; Absent – Bartlett.

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. First Draft 2024 Local Hazard Mitigation Plan

From: Office of Emergency Services

Recommendation: Discussion on the first draft 2024 Local Hazard Mitigation Plan.

Financial Implications: See report

Contact: Jamie Albrecht, Emergency Services Coordinator, (510) 981-5514

Action: 0 speakers. Presentation made and discussion held. Item continued to a future meeting.

Committee Action Items

3a. Recommendation Regarding Panoramic Hill Secondary Evacuation

From: Disaster and Fire Safety Commission

Referred: April 25, 2024

Due: October 8, 2024

Recommendation: Adopt a Resolution approving the development of a plan that includes a feasibility study and identification of funding sources for the construction of an emergency secondary egress road on Panoramic Hill. Such a plan could include discussions between the City of Berkeley, the City of Oakland, UC Berkeley, East Bay Regional Parks District and Alameda County and should also provide for continued contact with the Disaster and Fire Safety Commission (DFSC) as well as other related Berkeley Commissions as the Council determines.

Financial Implications: See report

Contact: Keith May, Commission Secretary, (510) 981-3473

Action: See action for Item 3b.

3b. Companion Report: Recommendation Regarding Panoramic Hill Secondary Evacuation

From: Fire and Emergency Services

Referred: April 25, 2024

Due: October 8, 2024

Recommendation: Adopt a Resolution directing the Fire Department to reach out to other impacted landowners to determine interest in pursuing, and coordinate costs sharing to conduct a feasibility study to identify a safe secondary evacuation and access route for the access impaired Panoramic neighborhood. The results of the study should then be shared with the Public Safety Policy Committee.

Financial Implications: See report

Contact: David Sprague, Fire, (510) 981-3473

Action: 0 speakers. M/S/C (Taplin/Bartlett) to send item 3b. to Council with a positive recommendation for City Council to adopt a Resolution directing the Fire Department to reach out to other impacted landowners to determine interest in pursuing, and coordinate costs sharing to conduct a feasibility study to identify a safe secondary evacuation and access route for the access impaired Panoramic neighborhood.

Vote: All Ayes.

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

4. Resolution: Opposition to Police Brutality and Use of Force on Nonviolent Protesters

From: Councilmember Harrison (Author)

Referred: November 20, 2023

Due: September 12, 2024

Recommendation: Adopt a Resolution reaffirming the City of Berkeley's opposition to and condemning police brutality towards nonviolent protesters and discouraging use of "less-lethal" weapons for crowd control.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Items for Future Agendas

- Discuss results of feasibility study regarding Panoramic Hill Secondary Evacuation.

Adjournment

Adjourned at 11:41 a.m.

I hereby certify that the foregoing is a true and correct record of the Public Safety Committee meeting held on July 15, 2024.

Wendy Sorensen, Assistant City Clerk

Communications

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No Material
Available for
this Item

There is no material for this item.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

The City of Berkeley Public Safety Policy Committee Webpage:

<https://berkeleyca.gov/your-government/city-council/council-committees/policy-committee-public-safety>



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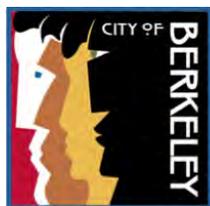


There is no material for this item.

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Sophie Hahn
 Councilmember, District 5
 City of Berkeley
 2180 Milvia Street
 Berkeley, CA, 94704
 (510) 981-7150 | shahn@berkeleyca.gov

To: Honorable Mayor and Members of the City Council
 From: Councilmember Sophie Hahn (Author), Councilmember Tregub (Co-Sponsor)
 Subject: Community Safety Plans for a Safe and Resilient Berkeley

RECOMMENDATION

Refer to the City Manager to create four strategic, single-subject Community Safety Plans to effectively reduce Gun Violence, Sexual Assault, Retail Theft, and Traffic Violence.

Return Plans to the City Council for review and approval.

SUMMARY STATEMENT

While crime rates in Berkeley remain far below the historic peaks of the 1990s, crime has been trending upward here and nationwide, and use of firearms has increased significantly since 2017 – reflective of a surge in gun purchases/availability that began with the Trump years and spiked during the pandemic. In fact, between 2020 and 2022, U.S. households purchased nearly 60 million guns and in 2021, more Americans died of gun-related injuries than any year on record.¹²

Having some of the strictest gun control laws in the nation, California also has among the lowest gun death rates. Still, the United States remains an outlier as it relates to firearm possession and gun violence.

Another area where the United States far surpasses other comparable nations is traffic violence, which has reached its highest levels in two decades, killing 46,000 Americans in 2022.³ Two additional alarming trends that emerged during the pandemic were the global rise in reported sexual assault – across all age groups – and the rise of “organized” retail theft – with the San Francisco Bay Area experiencing steady increases.

To proactively address these trends, many cities across the United States are adopting formal crime/harm reduction plans, setting clear goals and identifying actionable strategies to successfully reduce community violence and harms.

¹ de Visé, D. (2023, April 25). *Americans bought almost 60 million guns during the pandemic*. The Hill. <https://thehill.com/policy/national-security/3960527-americans-bought-almost-60-million-guns-during-the-pandemic/>

² Gramlich, J. (2023, April 26). What the data says about gun deaths in the U.S. Pew Research Center. <https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/>

³ Morris, F. (2022, September 5). *Traffic fatalities in the U.S. are at their highest levels in two decades*. NPR. <https://www.npr.org/2022/09/05/1121144984/traffic-fatalities-in-the-u-s-are-at-their-highest-levels-in-two-decades>

This item refers to the City Manager, working with the Department of Health, Housing and Human Services, the Berkeley Police Department, other City Departments, and community stakeholders, to produce single-subject Community Safety Plans – aligned with the City's Reimagining Public Safety and Fair and Impartial Policing Goals, Vision Zero, and the City's Health Status Report – among other plans and policies – to address key challenges, increase safety, and significantly reduce crime and harm across four categories: sexual assault, retail theft, traffic collisions, and gun violence.

In the future, the City Manager is encouraged to proactively initiate creation of similar plans to address persistent and/or emerging community safety challenges, and bring them to the City Council for review and approval.

BACKGROUND

Despite decades of decline, crime – and especially violent crime – trended upward with the COVID-19 pandemic. Across communities of all types, crime rates changed dramatically in 2020 with murder, assault, and gun violence reaching alarming highs. According to the Brennan Center for Justice and the FBI Uniform Crime Reporting Program, in 2020, murder rose nationwide by almost 30%, aggravated assault by nearly 12%, and violent crime increased by 5% overall.⁴ While Berkeley has fared better than many cities, Berkeley did experience an upswing in crime over the same period, as reflected in the Berkeley Police Department's annual crime reports.⁵

At its very worst, crime and violence cut lives short and robs families and communities of loved ones. Less serious incidents cause individual harm and negatively impact the community's sense of safety, wellbeing, and health, and erode public trust in government and law enforcement. Crime also impacts opportunities for economic growth, and the ability of cities and neighborhoods to attract new businesses and investments.

According to the Council on Criminal Justice, setting a clear goal is a crucial first step to reducing crime and preventing violence, and many cities have worked together to develop crime reduction plans.⁶ Cities and Police Departments across the United States including Boston, Phoenix, Kansas City, and Tacoma, have developed such plans. More than detailing crime response and criminal justice strategies, these plans often include holistic, educational, community, and social-services-type strategies to reduce crime as well as improvements to reporting, investigating, and otherwise responding to crime.

⁴ Grawert, A., & Kim, N. (2022, July 12). Myths and realities: Understanding recent trends in violent crime. Brennan Center for Justice. <https://www.brennancenter.org/our-work/research-reports/myths-and-realities-understanding-recent-trends-violent-crime>

⁵ Berkeley Police Department . (n.d.). Crime data. Berkeley Police Transparency Hub. <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/crimes>

⁶ Council on Criminal justice. (2022, January). *Saving lives: Ten essential actions cities can take to reduce violence now*. Council on Criminal justice. <https://counciloncj.org/10-essential-actions/>

As Berkeley works to confront root causes of crime and implement its Reimagining Public Safety Framework – a big shift from the traditional police-centered model – it’s important to simultaneously make tangible progress on key community safety challenges. While there are some existing frameworks for issues like gun violence – namely Berkeley’s Gun Violence Intervention and Prevention Plan – and traffic violence – Berkeley’s Vision Zero – there are currently no publicly available plans for reducing sexual assault or retail theft.

Both the Gun Violence and Vision Zero plans should be updated and, as necessary, expanded to ensure they cover prevention and deterrence, so crimes and injuries don’t happen in the first place; incorporate improved reporting mechanisms, to ensure the City has a trauma-informed and welcoming approach to victims seeking to report crimes; and include best practices relating to effective investigations and the resolutions of violent incidents.

Gun Violence

Berkeley exists in the context of skyrocketing gun violence rates both regionally and nationally. Although concentrated in South and West Berkeley, gun violence is a city-wide public health problem. Notwithstanding the recent decline between 2022 and 2023, shootings have gradually increased every year since 2017.

In response, the City has employed various community-based violence prevention strategies such as Operation Ceasefire, and most recently the Gun Violence Intervention and Prevention Program (GVIPP), which relies heavily on collaboration between the community and law enforcement. The GVIPP is set to launch in October 2024 and will create opportunities for people to turn away from committing acts of violence through a four-pronged approach to intervention: place based interventions, custom notifications, street outreach and social services. As Berkeley works to confront gun violence, it would benefit from an overarching framework that details all existing programs, policies, and approaches, and how they fit together.

Sexual Assault

Evidence shows that rates of sexual violence increased during states of emergency.⁷ While in Berkeley, rates of sexual assault dropped in 2020 and 2021, they increased in 2022 and again 2023.⁸

The Berkeley Police Department has identified the UC Berkeley as well as Berkeley High campuses as particularly troublesome. In fact, according to UC Berkeley’s 2022 Annual Report on Sexual Violence and Sexual Harassment, between 2021 and 2022, reports of sexual assault reaches the highest levels since the annual report began in 2018, with 35.7% of cases reported

⁷ Walker, T. (2020, May 1). *A second, silent pandemic: Sexual violence in the time of covid-19*. Center for Primary Care Harvard Medical School . <https://info.primarycare.hms.harvard.edu/perspectives/articles/sexual-violence-and-covid>

⁸ Berkeley Police Department. (2024, March 12). 2023 Berkeley Police Department Annual Report. City of Berkeley. <https://berkeleyca.gov/sites/default/files/documents/2024-03-12%20Item%2001%20WORKSESSION%20%202023%20Berkeley%20Police%20Department%20Annual%20Report.pdf>

to the Office for the Prevention of Harassment and Discriminations being sexual assault.⁹ Berkeley High has also struggled to address sexual assault on campus, with various student protests and lawsuits occurring over the administration's handling of sexual assault. As UC Berkeley, Berkeley High, and BPD work to confront sexual assault, a holistic approach that includes an increased partnership, an evaluation of reporting options, additional outreach and programming could prove beneficial to addressing the epidemic of assault on campus, and in our community.

Retail Theft

In the last several years, article heading such as “Man steals over \$4K worth of jackets from Berkeley REI,”¹⁰ “Brazen thieves take \$52k in tech from Berkeley Apple Store,”¹¹ and “Group of 7 makes off with \$19,000 in North Face Goods”¹² have become commonplace, as has the use of weapons and stolen vehicles in these crimes. In this regard, statistics confirm what the media reports and what residents and workers are experiencing. Between 2022 and 2023, retail theft rose by 19%, with 574 reported commercial burglaries as compared to 435 in 2022.^{13,14}

While Apple, REI, and the North Face are large retail chains, small businesses have also suffered under this new normal. Forbes reports that 90% of small business retailers nationwide have experienced theft at their store and some 83% said they believed retail theft is at least a somewhat major issue.¹⁵ In addition to suffering financial losses, retail theft puts workers in harm's way. As Berkeley works to revitalize its downtown and commercial areas, it must offer local and small businesses, consumers, and residents a plan to ensure the safety and vitality of its commercial districts.

Traffic Violence

The United States lags far behind other comparable countries as it relates to traffic violence and fatalities, and unlike most developed nations U.S. roadways have become more deadly – especially for pedestrians and cyclists. The traffic fatality rate in the United States is around 12.8

⁹ University of California, Berkeley. (2023). 2022 Annual Report on Sexual Violence and Sexual Harassment (SVSH): Data Update. University of California, Berkeley.

https://svsh.berkeley.edu/sites/default/files/2022_svsh_annual_report_full_static_version_1.pdf

¹⁰ Fahmy, H. (2024, June 6). Video: Man steals over \$4K worth of jackets from Berkeley Rei. KRON4.

<https://www.kron4.com/news/bay-area/video-man-steals-over-4k-worth-of-jackets-from-berkeley-rei/>

¹¹ Raguso, E. (2024, January 26). Brazen thieves take \$52K in Tech from Berkeley Apple Store. The Berkeley Scanner. <https://www.berkeleyscanner.com/2023/05/29/crime/berkeley-apple-store-50000-retail-theft/>

¹² Raguso, E. (2024b, February 27). Group of 7 makes off with \$19,000 in North Face Goods. The Berkeley Scanner. <https://www.berkeleyscanner.com/2024/02/27/crime/berkeley-north-face-19000-theft/>

¹³ Berkeley Police Department. (2024, March 12). 2023 Berkeley Police Department Annual Report. City of Berkeley. [https://berkeleyca.gov/sites/default/files/documents/2024-03-](https://berkeleyca.gov/sites/default/files/documents/2024-03-12%20Item%2001%20WORKSESSION%20%202023%20Berkeley%20Police%20Department%20Annual%20Report.pdf)

<https://berkeleyca.gov/sites/default/files/documents/2024-03-12%20Item%2001%20WORKSESSION%20%202023%20Berkeley%20Police%20Department%20Annual%20Report.pdf>

¹⁴ Gecan, A. N. (2024, March 25). Serious crimes spiked in Berkeley in 2023, according to Police Data. Berkeleyside. <https://www.berkeleyside.org/2024/03/13/2023-crime-report-berkeley-police-department>

¹⁵ Metz, J. (2024, July 10). The impact of retail theft on small businesses and states. Forbes.

<https://www.forbes.com/advisor/business-insurance/impact-retail-theft-on-small-businesses/>

per 100,000, compared to 6.3 in New Zealand, 3.3 in Spain, and 2.0 in Norway.¹⁶¹⁷ With the adoption of seatbelts, airbags, and improved vehicle design, the U.S. has managed to create safer cars. However, the dominance of SUVs and trucks – and their increased weight and height – as well as the increased weight of electric vehicles, has come at a cost to pedestrians and cyclists. Paired with a lack of safe bike and pedestrian infrastructure, the Country continues to lag far behind other nations.

In 2019, Berkeley adopted the Vision Zero Action Plan and committed to eliminating traffic deaths and severe injuries by 2028. While the City has made progress on its Vision Zero priorities, it has a long way to go to reach goals in a timely manner. On average, three people die and at least 32 sustain severe injuries on Berkeley streets every year.¹⁸ Drivers routinely travel at unsafe speeds, fail to yield at crosswalks and stop signs, make illegal turns, and injure pedestrians and cyclists. As Berkeley works to meet its Vision Zero goals, it should consider what other policies, campaigns, and partnerships it can develop to increase safety for cyclists and pedestrians, as well as those traveling in vehicles.

This item gives the City Manager an opportunity to actively engage with the community and various City departments to create holistic, actionable plans to reduce crime in Berkeley and drive down the harm the community is experiencing. By setting clear expectations related to prevention, intervention, and crime solving, the City will have a better understanding of what approaches work and which ones are less effective. While the Berkeley Police Department already has internal work-plans for crime prevention, this item asks for the development of publicly available plans to drive progress, and provide accountability

Due to the complexity of crime, a city-wide approach is necessary to achieve the desired results. The City Manager's key partner developing this series of holistic plans should be local stakeholders including various City agencies and departments, Berkeley High/BUSD, Berkeley City College and UC Berkeley, businesses, and other community partners.

The collaborative effort should include already existing frameworks to address public safety challenges as well as new recommendations which may include some or all of the following, and any other elements that arise from community and expert consultation:

1. Crime Prevention Strategies - build trust and relationships through neighborhood outreach, expand community policing and consider new gun violence prevention strategies, improve environmental design, and more
2. Reporting - assess what strategies have been successful, study and implement best practices for reporting sexual assault, including a victim-centered and trauma-informed

¹⁶ Insurance Institute for Highway Safety. (2024, June). Fatality facts 2022: State by State. IIHS. <https://www.iihs.org/topics/fatality-statistics/detail/state-by-state>

¹⁷ International Transport Forum - OECD. (n.d.) Organization for Economic Co-Operation and Development. <https://www.itf-oecd.org/sites/default/files/norway-road-safety.pdf>

¹⁸ City of Berkeley. (2021, March). Vision Zero Annual Report 2020-2021. <https://berkeleyca.gov/sites/default/files/2022-02/Vision-Zero-Annual-Report-2020-2021.pdf>

approach, examine how to protect victim privacy, best provide resources and offer support

3. Resource Allocation - consider which communities in Berkeley are under resourced and could benefit from increased funding for youth programming, restorative justice, public health, employment and education initiatives, as well as mental health and substance use disorder treatment programs
4. Improve Clearance Rates - consider additional trainings BPD could benefit from, enhance recruitment strategies, increase oversight, judge the benefit of acquiring evidence-based processing technology or equipment
5. Partnerships - explore untapped partnerships to increase public safety, consider what stakeholders in Berkeley and across the Bay Area may be currently missing in the process

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

While the Berkeley Police Department employs innovative strategies to address issues related to public safety, the City does not currently have comprehensive plans for each crime category with stated, short and long-term goals, and specific metrics to act as roadmaps toward progress.

Beginning in 2020, the Berkeley City Council voted to reimagine or redesign its public safety system from a traditional Police-Centered Model to one that is more focused on the diverse needs of the community, committing to a transformative, equitable approach to community-centered safety. The effort, now underway, included recommendations for a non-police response team for low-level emergencies, a non-police traffic enforcement agency, the creation of a Specialized Care Unit, and more.

As the City continues to expand and improve upon the comprehensive work already underway, it can utilize the principles articulated in its Reimagining Public Safety platform to create actionable, single-subject plans to address some of the most serious and complex public safety challenges our City faces. While the plans for sexual assault and retail theft will be novel, the plans developed for gun and traffic violence will fit into Berkeley's existing patchwork of policies and further expand on these ideas in the form of holistic, community safety plans.

ACTIONS/ALTERNATIVES CONSIDERED

While the City of Berkeley can continue without formal plans for each of these complex crimes and harms, it will lack strategic plans that articulate the path forward, and allow the City to measure whether the strategies employed actually work. With no plans or metrics, the City lacks the clarity needed to successfully address and reduce specific violence, crime, and other harms.

Crime reduction plans adopted by other jurisdictions rely heavily on law enforcement as the primary actors in public safety and will not be a good fit for Berkeley. The Community Safety Plans described in this item should be holistic, with a key focus on prevention and building a safe and resilient community.

CONSULTATION/OUTREACH OVERVIEW AND RESULTS

Our office met with and consulted both the City Manager and Police Chief who expressed support for this recommendation, and for the clarity these plans can provide to both the public and the City, driving towards real progress in these key areas of public safety challenge.

RATIONALE FOR RECOMMENDATION

The City of Berkeley has a Strategic Plan that identifies the long-term and short-term priorities the City Government will focus on to benefit the Berkeley community. In addition to this plan, the City of Berkeley has also adopted a Zero Waste Strategic Plan as well as a Climate Action Plan, Local Hazard Mitigation Plan, and more.

Successful implementation of Community Safety Plans could result in decreased crime and increased public safety.

IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT

The City Manager should conduct community outreach and solicit feedback from a broad set of internal and external stakeholders. Each Community Safety Plan should include a thorough analysis of the crime, tailored recommendations, and short- and long-term goals for measuring success. Plans should be evaluated for success and adjusted accordingly.

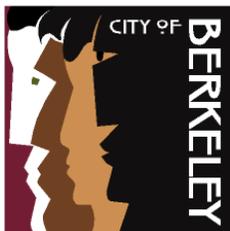
Berkeley can reduce crime and eliminate key drivers of harm in the community. Through thoughtful planning and community participation, we can ensure the safety, security, and wellbeing of all people in Berkeley.

OUTCOMES AND EVALUATION

The City Manager should work with the Berkeley Police Department and various community stakeholders to determine what success looks like for each individual Community Safety Plan, setting realistic, attainable goals and timelines.

CONTACT

Councilmember Hahn, (510) 981-7150



Kate Harrison
Councilmember, District 4

ACTION CALENDAR
October 15, 2024

To: Honorable Members of the City Council

From: Councilmember Harrison

Subject: Resolution: Opposition to Police Brutality and Use of Force on Nonviolent Protesters

RECOMMENDATION

Adopt a Resolution reaffirming the City of Berkeley's opposition to and condemning police brutality towards nonviolent protesters and discouraging use of "less-lethal" weapons for crowd control.

POLICY COMMITTEE RECOMMENDATION

No final action was taken by the Public Safety Committee. Item is automatically returning to the Council agenda pursuant to the time limit for items referred to policy committees.

BACKGROUND

The City of Berkeley has a long and storied history of nonviolent protest and civil disobedience. Unfortunately, that history is coupled with one of police brutality directed at nonviolent protesters. The most infamous example of police brutality in Berkeley occurred on "Bloody Thursday" in 1969 when James Rector was murdered by the Alameda County Sheriff force and a National Guard helicopter sprayed CS (tear gas) on thousands of protesters shortly following the founding of People's Park and deputies shot birdshot and buckshot at demonstrators.

While CS gas and pepper spray are both banned in warfare by international law, police in the United States commonly use them for crowd control purposes. On June 9, 2020, the City Council unanimously passed a motion to prohibit the use of CS gas by the Berkeley Police Departments or by any agency called for mutual aid in Berkeley.¹ This motion also prohibited the use of pepper spray and smoke by the Berkeley Police Department and by any agency called for mutual aid response in Berkeley, during the

¹ <https://berkeleyca.gov/sites/default/files/city-council-meetings/06-09%20Annotated%20Agenda%204pm.pdf>

COVID-19 pandemic and until such time that the City Council removes this prohibition.² The City's recent suspension of the local COVID emergency does not mean that the COVID-19 pandemic is over, nor does it overturn the Council's 2020 pepper spray and smoke prohibition policy.

Other devices can also harm people. LRADs, or Long-Range Acoustic Devices, have dire consequences for the protesters and bystanders who are exposed to them. According to the Berkeley Police Department's 2022 Police Equipment and Community Safety Annual Report, BPD currently has two LRADs in its possession. Use of LRADs in crowd control situations can be dangerous according to Physicians for Human Rights, and the City of Berkeley regulates their use. LRADs are "capable of causing not only permanent hearing loss, but also migraine, vestibular, and other auditory symptoms" and emit decibels up to 162 dB SPL (sound pressure level), exponentially higher than jet engines at 130 dB SPL, as decibel levels increase exponentially.³

Batons are commonly used by police to brutalize protesters, and recent legislation strongly restricts their use by the Berkeley Police Department. Under international law, "batons must never be used as a means of punishment, to disperse peaceful protests, or against people who are already restrained."⁴ Yet batons were used by police forces across the United States to disperse peaceful protests during the Black Lives Matter protests of 2020, for example. During Berkeley Black Lives Matter protests in December of 2014, police forces used CS gas, blast rounds, and harmed protesters with batons to force crowds to disperse—which led to a successful civil rights lawsuit against the city.⁵

As a result, the City now is required to apply standards when less lethal weapons are used in a crowd using a standard closer to the lethal force standard. In addition, the policy requires BPD personnel to have a clear shot at an allegedly violent target to prevent injury to others, expansive use of force reporting, implementation of body worn cameras, cite and release provisions, crowd liaisons, and prohibitions on skirmish lines advancing rapidly into a crowd. Berkeley has to live up to its commitments, and other jurisdictions must adopt similar policies.

So-called less-lethal or "kinetic impact" projectiles, including rubber bullets, are used by police forces across the country against nonviolent protesters, and their use should be strongly restricted. According to Amnesty International, "there has been an alarming increase in eye injuries, including eyeball ruptures, retinal detachments and the

²<https://records.cityofberkeley.info/PublicAccess/api/Document/AfRL%C3%89LmUm28As5bQtd10Au1FOSJlk1QHHaoDvg0JDhYupGbecgfU%C3%89KphfxL4BQWn%C3%81GtBMi8Z0%C3%81w8NXdky5pxceo%3D/>

³ <https://www.asha.org/news/2020/long-range-acoustic-devices-for-crowd-control-can-cause-serious-hearing-loss-and-harm/>

⁴ <https://www.amnesty.org/en/latest/news/2022/06/global-20-rules-for-ending-widespread-misuse-of-police-batons/>

⁵ <https://www.berkeleyside.org/2015/06/11/police-report-mistakes-challenges-in-berkeley-protests>

complete loss of sight, as well as bone and skull fractures, brain injuries, the rupture of internal organs and hemorrhaging, punctured hearts and lungs from broken ribs, damage to genitalia, and psychological trauma” by less-lethal munitions.⁶ These weapons also include hard foam, rubberized buckshot, and CS gas. Amnesty International also states that “at least 53 people died from projectiles fired by security forces, according to a peer-reviewed study based on medical literature worldwide between 1990 and June 2017. It also concluded that 300 of the 1,984 people injured suffered permanent disability.” All less-lethal munitions can still be lethal, and should not be used for crowd control in Berkeley by UCPD or mutual aid agencies.

Finally, the practice of corralling, or “kettling,” can pose severe dangers to nonviolent and peaceful protesters. When police corral protesters in a confined space, there is nowhere to go if police begin to use force against protesters. As nonviolent and peaceful protesters are corralled into the same confined and potentially dangerous space, protesters may become victims of excessive police force more easily. Beyond the inability to escape police use of force, corralled protesters are put in a plainly frightening situation that may cause immense psychological distress. Importantly, even if police are focused on certain protesters, kettling places all protesters, including nonviolent and peaceful protesters, into the same confined and dangerous space. The City of Berkeley should strongly discourage any police departments responding to civil disobedience and protest in Berkeley from utilizing this strategy for crowd control.

“Less-lethal,” which is often erroneously described as “less-than-lethal,” is only relatively so. It can maim and even kill. It is known to have a disproportionate impact on persons with both physical disabilities and mental challenges. CS can be very detrimental to persons with asthma, COVID-19 or other respiratory diseases. Crowd control is a dynamic setting, and officers’ ability for precise shots is greatly impaired. The chances of hitting the intended individual with a projectile are low, and of hitting uninvolved protesters is high. Chemical munitions by their nature affect large numbers of people and even spread far beyond the immediate area. BPD Chief Meehan confirmed this in a *Berkeleyside* account from June 11, 2015:

“Chief Meehan noted that, even when an officer is focused on an individual, the projectile does not always find its mark due to the unpredictable movements of a crowd. A similar explanation was provided regarding baton strikes. Police said they are trained to avoid areas such as the head and neck, but that blows don’t always land in the right place because subjects move.”⁷

⁶ <https://www.amnesty.org/en/latest/news/2023/03/global-dozens-killed-and-thousands-maimed-by-police-misuse-of-rubber-bullets/#:~:text=There%20has%20been%20an%20alarming,damage%20to%20genitalia%2C%20and%20psychological>

⁷ <https://www.berkeleyside.org/2015/06/11/police-report-mistakes-challenges-in-berkeley-protests>

Use of less-lethal weapons in an indiscriminate manner against a demonstration that is non-violent, or even mixed, is a denial of First Amendment rights to free speech and assembly. In fact, it is tantamount to collective punishment, a denial of due process.

In September of 2021, Governor Gavin Newsom signed AB 48, which restricts police departments use of kinetic energy projectiles and chemical agents to disperse any assembly, protest, or demonstration, and AB 481, which requires law enforcement agencies to obtain approval of military equipment. While these laws restrict the use of “less-lethal” munitions California law enforcement agencies, they also do not preclude municipalities from adopting more stringent policies or reaffirming their opposition to their use on nonviolent protesters.

This subject is of particular concern because the University of California is currently awaiting a decision by the Supreme Court in *Make UC a Good Neighbor v. The Regents of University of California* that could allow the University to begin building housing there, with resulting protests a likely outcome. On September 19, 2023, the City of Berkeley adopted a resolution authorizing the City Attorney to submit an amicus brief in support of the University of California Regents, defending the University’s proposed development of People’s Park. It is important that the Berkeley City Council immediately adopt a resolution denouncing the use of “less-lethal” devices and any police brutality against nonviolent protesters in Berkeley from any agencies and police departments, whether or not our police department participates in enforcement actions.

FISCAL IMPACTS OF RECOMMENDATION

Following Berkeley’s policies on crowd control will reduce the need for resource-intensive and expensive paramedic and medical care for injured protestors.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with adopting this recommendation.

ATTACHMENTS

1: Resolution

RESOLUTION NO. XXXX-N.S.

REAFFIRMING OPPOSITION TO AND CONDEMNING POLICE BRUTALITY
TOWARDS NONVIOLENT PROTESTERS AND DISCOURAGING USE OF “LESS-
LETHAL” WEAPONS FOR CROWD CONTROL

WHEREAS, Berkeley’s Southside neighborhood has historically been the site of violent police use of force and brutality towards protesting students and community members, most famously during “Bloody Thursday” in 1969 where the Alameda County Sheriff force murdered James Rector and a National Guard helicopter sprayed CS (tear gas) on thousands of protesters shortly following the founding of People’s Park; and

WHEREAS, the Chemical Weapons Convention and Geneva Convention prohibit CS gas and pepper spray in warfare; and

WHEREAS, the State of California recently enacted AB 481⁸ and AB 48,⁹ which demilitarize and regulate police departments’ acquisition and use of projectiles, chemical weapons, military equipment, and others, and protect protesters’ First and Fourth Amendment rights; and

WHEREAS, on April 27, 2021, the Berkeley City Council unanimously passed an ordinance to oversee and make transparent militarized police equipment used for crowd control and SWAT operations; and

WHEREAS, Berkeley Police Department’s 2022 Police Equipment and Community Safety Annual Report provided an inventory of reportable equipment, including 20 Less Lethal single 40MM launchers, 2 Less Lethal Milkor LTL 40 MM multi-launchers, 724 associated 40mm rounds, 8 Less Lethal FN 303 Launchers, 5,445 associated FN rounds, 190 Oleoresin capsicum (OC spray), 204 Chlorobenzylidene Malononitrile and Oleoresin capsicum, 2 Long Range Acoustic Devices, and 195 36’ batons; and

WHEREAS, on June 9, 2020,¹⁰ the Berkeley City Council unanimously voted to prohibit the use of CS gas by the Berkeley Police Department or any outside department or agency called to respond to mutual aid in Berkeley and of pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic and beyond; and

WHEREAS, the University of California’s University-wide Police Policies and Procedures¹¹ allow the University of California Police Department to apply intermediate force, including batons, tasers, pepper spray, chemical agents (such as CS gas), and

⁸ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB481.

⁹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB48.

¹⁰ <https://berkeleyca.gov/sites/default/files/city-council-meetings/06-09%20Annotated%20Agenda%204pm.pdf>.

¹¹ <https://ucnet.universityofcalifornia.edu/tools-and-services/administrators/policies/proposed/police-procedures-manual.pdf>.

rubber bullets, on nonviolent protesters displaying active resistance, which is defined as intentionally and unlawfully opposing the lawful order of a peace officer in a physical manner; and

WHEREAS, on August 3, 2022, UC Berkeley police forces in riot gear confronted protesters,¹² arrested students and community members participating in civil disobedience, and allegedly forcibly shoved nonviolent defenders of the park, resulting in severe injuries;¹³ and

WHEREAS, following the conflict on August 3, 2022, police forces retreated and UC Berkeley declared construction paused indefinitely; and

WHEREAS, on August 3, 2022, the Berkeley City Council called for a special meeting on August 4th, 2022 to discuss and consider the temporary suspension of the June 9, 2020 policy prohibiting the use of CS gas, smoke, and pepper spray for the duration of the City Council recess following pressure from the Alameda County Sheriff, and then canceled it on August 4, 2022 following public outrage; and

WHEREAS, in 2020, 84% of Berkeley voters¹⁴ approved amending the city charter to establish an independent police accountability board and director to provide oversight of local law enforcement, pointing to the public's desire for police reform; and

WHEREAS, violent, less-lethal forms of crowd control used by BPD, UCPD or mutual aid agencies, include but are not limited to Long Range Acoustic Devices, plastic and rubber bullets, hard foam, batons, corralling, launch projectiles, and Active Denial Systems; and¹⁵

WHEREAS, less-lethal weapons and tactics deployed in crowd control have disproportionate impacts on persons with both physical disabilities and mental challenges, can have detrimental impacts to persons with asthma, COVID-19 or other respiratory diseases; and

WHEREAS, less-lethal crowd control is a dynamic operation in which officers' ability for precise shots is greatly impaired and the chances of hitting the intended individual with a projectile are low, and of hitting uninvolved protesters is high; and

WHEREAS, chemical munitions by their nature affect large numbers of people and even spread far beyond the immediate area; and

¹² <https://www.berkeleyside.org/2022/08/03/uc-berkeley-fences-off-peoples-park-begins-construction-process>.

¹³ https://www.instagram.com/p/ChYn3ZYrU9j/?img_index=2.

¹⁴ [https://ballotpedia.org/Berkeley,_California,_Measure_II,_Police_Accountability_Charter_Amendment_\(November_2020\)](https://ballotpedia.org/Berkeley,_California,_Measure_II,_Police_Accountability_Charter_Amendment_(November_2020)).

¹⁵ <https://news.berkeley.edu/2020/06/05/are-crowd-control-weapons-dangerous-very-says-uc-berkeley-expert>.

WHEREAS, use of less-lethal weapons or tactics in an indiscriminate manner against a demonstration that is non-violent, or even mixed, is a denial of First Amendment rights to free speech and assembly, and is tantamount to collective punishment, and a denial of due process.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley reaffirms its objection to and denounces any and all police brutality and use of force against nonviolent protesters, including those participating in nonviolent civil disobedience.

BE IT FURTHER AND FINALLY RESOLVED that the Council of the City of Berkeley strongly urges the University of California Police Department and any outside departments or agencies called to respond to mutual aid in Berkeley against using “less-lethal” weapons and tactics—including but not limited to CS gas, pepper spray, smoke, Long-Range Acoustic Devices, batons, rubber bullets, launched projectiles, and corralling—against nonviolent protesters, including those participating in nonviolent civil disobedience.

