

Commendations: PAB member selections (4 responders)

Page # in agenda packet	Category	Nominator	Employee / incident
16		RH	Ruff – apprehend wanted vehicle & person
17	(c)	CO	Armistead & 8 others – two stab wound victims
19	(d), (b), (c)	CO, DL, KC	Speelman, DeBruin & Mitchell – person threatening to jump off roof of Sather Gate Garage
26	(c)	DL	Speelman, Armistead, Albrandt, Ramey – hate crime
27	(c)	CO	Castle & 25 others – home invasion
32	(b)	DL, RH	Hogan & 4 others – lifesaving actions
33	(b), (d)	DL	Schikore & unnamed female – de-escalating person in crisis
49	(b)	DL, RH	Unknown – BFD commend BPD for de-escalation at Doubletree
72	(a)	KC	Michalczyk & Stern – de-escalate & disarm bank robber
101		RH	Lathrop & 3 others – reserve officers as Fleet Team
154	(d)	DL	Muratovic – hostile vehicle dweller
159	(d)	DL	Gordon – welfare check
161	(d)	DL	Jackson – locate missing 87 y.o. man

Criteria from Standing Rules, Section L.4.

- a) Exceptional valor, bravery, or heroism;
- b) Superior handling of a difficult situation;
- c) An action or performance that is above and beyond typical duties;
- d) Extraordinary compassion, empathy, or kindness.

Item # 10.a.  
PAB 5-11-22 meeting

**Lee, Katherine**

---

**From:** Wendy Alfsen <wendyalfsen@gmail.com>  
**Sent:** Tuesday, May 10, 2022 7:09 PM  
**To:** Lee, Katherine  
**Subject:** Fwd: 5/10 Agenda #30 Return to PAB - both Police Equipment & AB 481 Compliance for Due Process and Public review  
**Attachments:** Council\_ Send Police Equipment Impact Statements & AB 481 Policy to PAB for review & recommendation.pdf

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

This letter was submitted to Council in support of remand of both the Police Equipment and Community Safety Ordinance and AB 481 to the PAB. We support PAB receiving information responsive to questions to BPD in 4/6/22 resolution and in 4/29/22 violations notice. Robust review and revision of the BPD documents and policy to include all of the required information, especially detailing the prohibited and specifically defined, authorized uses of militarized equipment in Berkeley.  
Berkeley Friends Meeting Social & Environmental Action Committee Racial Justice Action Team  
Barb Atwell and Wendy Alfsen, Co-Clerks

----- Forwarded message -----

**From:** Wendy Alfsen <wendyalfsen@gmail.com>  
**Date:** Tue, May 10, 2022 at 9:30 AM  
**Subject:** 5/10 Agenda #30 Return to PAB - both Police Equipment & AB 481 Compliance for Due Process and Public review  
**To:** City Clerk <CLERK@cityofberkeley.info>, Jesse Arreguin Mayor <mayor@cityofberkeley.info>, <BBartlett@cityofberkeley.info>, Harrison, Kate <KHarrison@cityofberkeley.info>, <SHahn@cityofberkeley.info>, <RRobinson@cityofberkeley.info>, <swengraf@cityofberkeley.info>, <LDroste@cityofberkeley.info>

Council can and should wait until PAB has had the full 90 days provided by BMC 2.100 to complete review and make recommendations and cannot proceed under AB 481 until 30 days after BPD posting of 481 Policy & Inventory (no earlier than 5/28/22).

See attached letter from Berkeley Friends Meeting

--  
Wendy Alfsen & Barb Atwell, Co-Clerks  
510-684-5705  
[wendyalfsen@gmail.com](mailto:wendyalfsen@gmail.com)

--  
Wendy  
510-684-5705  
[wendyalfsen@gmail.com](mailto:wendyalfsen@gmail.com)

May 9, 2022

**Re: 5/10/22 Agenda Item 30 - Police Equipment & Community Safety Ordinance and AB 481 Militarized Equipment Use Policy - Refer to Police Accountability Board with instructions to BPD to cooperate and provide PAB with information needed to complete PAB review and recommendations before returning to Council for action**

Mayor and Councilmembers:

The Berkeley Friends Meeting Social and Environmental Action Committee and the Racial Justice Action Team (RJAT) urges Council to send the BPD request for review and approval of Impacts Statements, Report as well as the AB 481 Policy & Inventory to the Police Accountability Board (PAB)

PAB Review & Recommendation Incomplete - Send back to PAB. The City Ordinance states that until BPD has adequately submitted information in Impact Statements, report and policy required by ordinance, the 4 Council meeting deadline for approval does NOT begin to run. Police Equipment & Community Safety ordinance is designed for review and public comment at PAB, then PAB recommendations (has not yet occurred). After those steps, BPD submits to Council and the 4 meeting limitation begins to run. BPD is pressuring the City Council to pass the submitted Impact Statements on 5/10/22 - one year from final approval of the Police Equipment & Community Safety Ordinance on 5/11/21.

AB 481 Timing - 30 day public review BEFORE hearing incomplete. Council cannot act on the AB 481 policy [it is unclear if BPD has even initiated AB 481 compliance] until at least 30 days from BPD prominent public posting (April 28, 2022, is apparently claimed but neither policy nor report can be easily located on the Police Department website - without public posting, has the 30 days even started to run? Is a City Council agenda packet publication sufficient public notice? We submit it is not.)

At the earliest, Council cannot act on AB 481 compliance before 5/28/22 and state law gives Council six months to determine its policy. The publication of the Berkeley Military Equipment Lexipol policy (4/28/22) is the earliest date to start the 30 days for public notice to permit public review and comment). Pursuant to the 481 posting requirement, the required public hearing cannot occur prior to 5/28/22. Council can, and is, requested to return to the PAB both compliance with AB 481 and with Berkeley Police Equipment & Community Safety.

For the Berkeley Police Equipment & Community Safety ordinance, BMC 2.100, the BPD shall not seek City Council approval until “

“(1)After the Police Accountability Board review requirements have been met,” ... [and is] “to include Police Accountability Board recommendations, at least fifteen (15) days prior to a public meeting.” BMC 2.100.040(H)

(2)If the City Council does not approve such an item within four (4) regular City Council meetings from when the item is first scheduled, the Police Department shall cease its use of the Controlled Equipment until such review and approval occurs. (Ord. 7760-NS § 1, 2021)”

Police Equipment Ordinance - still time for due process . The PAB has 90 days from March 30 to complete its review and make recommendations - that deadline is June 28,2022.

Proper action by Council would be to remand this matter to the PAB with instructions to the BPD to fully cooperate and provide needed information to enable the PAB to complete its review.

PAB has notified BPD of insufficiencies and BPD has stonewalled and denied, rather than complied with the needed information. BPD concedes it has not complied with AB 481; in light of the 4/29/22 and 4/6/22 PAB communications, Council remands with instructions to BPD to respond to PAB with the information and changes in language requested by PAB, is appropriate.

There is time for BPD to comply; if any deadline has passed during BPD’s failure to communicate with the PAB, then BPD cannot use the equipment. It appears that if BPD complies, the deadlines can still be met – June 28 for the City’s Police Equipment and Community Safety and October 28 for AB 481 adoption.

We look forward to working with the City to develop a policy which clearly identifies prohibited and authorized uses for police militarized equipment and to bring the City into compliance with state law AB 481. If PAB and Council can not make the required findings, the Impact Statements, the Report and 481 policy and equipment inventory can not be approved.

Sincerely,

Berkeley Friends Meeting Racial Justice Action Team

Barb Atwell and Wendy Alfsen, co-Clerks

Item #10.a.  
PAB 5-11-22 meeting

Lee, Katherine

**From:** John Lindsay-Poland <JLindsay-Poland@afsc.org>  
**Sent:** Wednesday, May 11, 2022 1:58 PM  
**To:** michaelchang1942@gmail.com  
**Cc:** Lee, Katherine  
**Subject:** Proposed language on military equipment  
**Attachments:** ArmoredVehicles.pdf

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Police Accountability Board chair Chang,

I'd like to suggest some specific language for the BPD military equipment policy, building on the "best practices" idea referenced in the Board's last discussion. Specifically, I recommend language for four aspects of the policy, based on what other law enforcement agencies have implemented or have proposed to implement for AB 481:

1. Armored vehicle deployment
2. Patrol rifle deployment
3. Impact Projectiles and Respective Launchers
4. Military equipment used by outside agencies

**1. Better policy for use of armored vehicles** (Oakland PD), Training Bulletin III.P.04, "Armored Vehicles". Also attached. This policy was developed in an extensive process of the Oakland Police Commission, with Department and community input. In particular, the sections of the Oakland armored vehicle policy on **Pre-Planned Operations, Prohibited Uses** and **After-Action and Documentation of Deployments** could be easily adapted for BPD's armored vehicle policy.

**2. Better policy for M4 / Patrol rifles.** Patrol rifles are often deployed by the Special Response Team together with other specialized / militarized equipment, such as armored vehicles. The Oakland PD armored vehicle policy provides useful language for patrol rifle deployment. In particular, the sections of the Oakland armored vehicle policy on **Pre-Planned Operations, Prohibited Uses** and **After-Action and Documentation of Deployments** could be easily adapted for BPD's patrol rifle use policy. For example, display of the patrol rifle should be prohibited for "Recruitment, public relations, or promotional activities; Crowd control; and Routine patrol operations."

**3. Better policy for use of chemical agents and impact projectiles (Davis PD)**, on pp. 4-5 (copied below also). This policy incorporates the extensive language of AB 48 (Penal Code § 13652).

The Board may wish to reaffirm the full ban on teargas. But because AB 48 applies to impact projectiles and launchers, the below should be applied to a) Penn Arms 40mm Launcher; b) Milkor LTL Multi-Launcher; c) FN 303 Launcher and Pava Projectile.

=====

From the Davis Police Dept. proposed policy on military equipment (see pp. 4-5):

#### **Kinetic Energy Projectiles & Chemical Agents – Assembly, Protest, or Demonstration (Penal Code § 13652)**

Except as provided for in this section, kinetic energy projectiles and chemical agents shall not be used by any law enforcement agency to disperse any assembly, protest, or demonstration (Penal Code § 13652 (a). See PP 2.59-A, First Amendment Assemblies for further guidance).

1. Authorized Use (Penal Code § 13652 (b))

Kinetic energy projectiles and chemical agents shall only be deployed by a peace officer that has received training on their proper use by the Commission on Peace Officer Standards and Training for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and only in accordance with all of the following requirements:

1. Deescalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.
2. Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
3. Persons are given an objectively reasonable opportunity to disperse and leave the scene.
4. An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.
5. Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
6. Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.
7. An objectively reasonable effort has been made to extract individuals in distress.
8. Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.
9. Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.
10. Kinetic energy projectiles or chemical agents shall not be used by any law enforcement agency solely due to any of the following:

1. A violation of an imposed curfew.
2. A verbal threat.
3. Noncompliance with a law enforcement directive.

k. If the chemical agent to be deployed is tear gas, only a commanding officer at the scene of the assembly, protest, or demonstration may authorize the use of tear gas.

=====

#### **4. Military equipment used by outside agencies:**

Santa Cruz PD , Santa Clara PD , Hayward PD , Fresno County Sheriff's Office use the following Lexipol-approved policy for mutual aid and military equipment:

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

Long Beach PD is more explicit. Its proposed policy on mutual aid says:

COORDINATION WITH OTHER LAW ENFORCEMENT AGENCIES Military equipment used by any employee of this Department shall be approved for use and in accordance with this Department policy. Military equipment used by other jurisdictions that are providing mutual aid to this Department shall comply with the policies of the LBPD.

San Diego PD also requires outside agencies to follow SDPD's military equipment policy, and is more elaborate in its description:

From time to time, the Police Department may be required to assist or be assisted by other law enforcement agencies in a formal Law Enforcement Mutual Aid Request or support with day to day operational collaboration. These partnerships with allied law enforcement agencies and the ability to provide mutual aid and operational collaboration is an integral part of maintaining the continuity of public safety within the region. In certain mutual aid or operational collaboration circumstances, it may be necessary for San Diego Police Officers to utilize military equipment to fulfill an assigned mission (i.e. civil unrest, SWAT requests, or other critical incidents). In those situations, the Police Department members are required to adhere to the Department's Military Equipment Use Procedure and all Department policies and procedures, regardless of operational jurisdiction. Conversely, should another law enforcement agency assist in a mutual aid request in the City of San Diego, this procedure has been established to ensure that their use of military equipment is consistent with the guidelines set forth within the San Diego Police Department's Military Equipment Use Procedure.

best,  
John

American Friends Service Committee  
California Healing Justice Program  
Tel: 510-282-8983



Effective Date:  
15 Mar 21

Index Number: III-P 04  
Alpha Index: High Risk Incidents  
Barricaded Subject Incidents  
Critical Incidents

Evaluation Coordinator: Training Division

*"Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy."*

## ARMORED VEHICLES

### Overview

The purpose of this Training Bulletin is to serve as a guideline for the safe use and deployment of any armored vehicle allowed to operate in the Department's jurisdiction. This Training Bulletin applies to all armored vehicle deployments by the Department through mutual aid to other jurisdictions, and to armored vehicle deployments by other agencies operating in Oakland under the Department's control. The Department's armored vehicles include a Lenco BearCat and an armored Chevrolet Suburban (Armored Suburban).

An armored vehicle is a piece of law enforcement equipment that may allow officers to use non-force options to safely resolve incidents involving actual, threatened, or reasonably suspected violence using firearms or explosives. The protective capabilities of an armored vehicle greatly exceed those of a patrol vehicle and proper deployment of armored vehicles may increase the safety of the public, law enforcement officers, and other first responders. Armored vehicles provide improved cover for officers, are stocked with tools that might be needed during a critical incident, and increase the options for a safe resolution.

Deployment of an armored vehicle might result in the safe apprehension of an engaged person in a timely manner. The Department recognizes that the deployment or appearance of certain armored vehicles may escalate tension, provoke fear, prevent clear communication, or increase distrust. The Department therefore restricts deployment of armored vehicles to those situations where the benefits of deployment outweigh the potential detrimental effects.

### Authorized Uses of Armored Vehicles

Command officers (at the rank of Lieutenant of above) may authorize the deployment of an armored vehicle for:

- Use as mobile physical cover in incidents involving actual or threatened violence, or when reasonable suspicion, based on articulable facts, exists that violence will occur using firearms or explosives.
- Vehicle blocking for incidents involving armed and unresponsive persons in vehicles (Reference Training Bulletin III-P.01).
- Medical emergencies and disaster responses, when the armored vehicle's capabilities are necessary to prevent loss of life.





- Oversight and informational purposes, as authorized by the Police Commission

Commanders shall only authorize the deployment of armored vehicles when the specific capabilities of the BearCat or Armored Suburban are necessary to bring an incident to a safe conclusion. Any authorized departure from an armored vehicle's place of storage shall be considered a deployment.

Safe use of armored vehicles during authorized deployments:

Vehicle deployments will necessarily vary depending on the circumstances at hand. All uses of armored vehicles should be consistent with Department training and procedures and include:

- Maintaining adequate cover. The armored vehicle's capabilities greatly exceed those of any patrol vehicles and should be maximized.
- Restricting persons' movement. The armored vehicle may give an advantage over conventional patrol vehicles for such maneuvers as blocking in another vehicle.
- Allowing for peaceful negotiations. Armored vehicles may allow officers to get into position to safely negotiate while still maintaining cover.
- The armored vehicle should be placed in such a way as to maximize the position of protection for officers or others at risk of harm, to allow all reasonable means for resolving the incident peacefully.
- Protecting Life. Armored vehicles may be able to operate in situations (e.g. active shooter) where personnel driving conventional vehicles would be at risk.
- Assessing the threat posed by the armed person, and proportional force options to respond to immediate contingencies if necessary. Depending on the ability of officers to mitigate the immediate threat posed by an armed person to officers and the public, officers may not need to necessarily use force pre-emptively even if the person moves or awakens and does not immediately disarm themselves.

**Pre-planned Operation of Armored Vehicles**

All pre-planned deployments of armored vehicles must be authorized by a command officer at the rank of Captain or above. Commanders shall ensure that an operations plan (Reference Training Bulletin III-Q and TF -3116 Operations Plan and Risk Assessment Overview) is completed for all pre-planned deployments.

Commanders shall make every effort to avoid the deployment of armored vehicles in the presence of minors, the elderly, medically compromised people, people with physical, mental or intellectual disabilities, people with limited English proficiency, or other vulnerable people. (Reference DGO K-3 Use of Force for definition of "vulnerable people".)

Commanders shall determine whether to deploy an armored vehicle based on credible intelligence, and consider the following variables when determining whether to deploy an armored vehicle, and the type of armored vehicle to deploy:



- Whether the use of an alternative operation location would diminish the need to use an armored vehicle.
- Potential presence of minors, elderly, medically compromised, people with physical, mental or intellectual disabilities, people with limited English proficiency, or other vulnerable people. (Note: This variable should be given special consideration due to the potential for trauma.)
- Potential presence of uninvolved persons. (Note: This variable should be given special consideration due to the potential for trauma.)
- Potential traumatic effect of an armored vehicle's presence on neighbors and other bystanders.
- Lack of knowledge on relevant characteristics of the operation location and persons present.
- Reliability of intelligence source for information on the operation location and persons present.
- For night-time operations, potential effects on sleeping or just-awakened persons.
- Potential presence of firearms (including caliber and type), explosives, chemical agents, edged weapons.
- Potential skills of persons present to use firearms or other weapons, including experience in law enforcement, military, or other armed groups.
- Whether the targeted person(s) have a history (within a time period relevant to the suspected crime) involving the criminal use of firearms or other weapons.
- Geographic factors, such as barriers, locked gates, water, thick brush, and narrow roads, and other factors that limit the maneuverability of the armored vehicle.
- Presence and type of animals present.

#### **Prohibited Uses of Armored Vehicles**

All uses that are not authorized by this policy are prohibited. For purposes of clarity, the following are specifically noted as prohibited uses:

- Recruitment, public relations, or promotional activities
- Crowd control
- Routine patrol operations
- Attachment of a weapon
- Attachment of a ram (outside of use during natural disasters or medical emergencies)



### **Operation of Armored Vehicles**

Armored vehicles shall only be operated by officers<sup>1</sup> certified by the Tactical Operations Team commander. This includes, but is not limited to, all members of the Entry Team and Sniper Team elements. It also includes all Patrol Rifle Officers (PRO's).

### **Vehicle and Operations Training**

All officers authorized to operate armored vehicles shall participate in training sessions for their proper operation, which shall be conducted by a member of the Department's Training Staff. Periodic training shall include a review of the essential features of the vehicle, and a driving, operational and tactical maneuvering assessment, to ensure all operators are proficient in its use, and aware of emergency procedures. The records of such training shall be maintained by the Department's Training Staff.

Armored vehicles shall also be included in scenario-based training, to provide officers who respond to critical incidents with continued familiarization to ensure the safe operation and effectiveness of these vehicles. Scenario and classroom-based training also offer the opportunity to screen for, monitor, and assess an officer's mental and physical readiness to conduct critical incident operations prior to deployment in such operations.

Use of an armored vehicle for training purposes shall be considered a "use" for purposes of reporting.

### **Use of Video Recording Devices with Armored Vehicles**

Officers operating an armored vehicle shall utilize any video recording devices assigned to that vehicle<sup>2</sup> in accordance with Departmental policy for the use of portable digital recording devices (e.g. Departmental General Order I-15.1). This means that absent exigent circumstance (e.g. active shooter) the recording devices shall be attached to the armored vehicle and activated prior to initiating the circumstances enumerated in policy (e.g. detentions and arrests, serving a search or arrest warrant). Additionally, recording devices shall not be deactivated until allowed per policy.

Once an armored vehicle is deployed to the scene, the on-scene supervisor of the officers utilizing the armored vehicle (e.g. Team Leader of the Designated Arrest Team) shall ensure the cameras are positioned towards the person or the location of interest when it is feasible to do so safely.

The officer operating the armored vehicle is responsible for ensuring video recording devices are deployed with the armored vehicle and activated appropriately, recordings are uploaded to the appropriate system, and video recording devices are returned to their charging stations. These duties may be assigned to other personnel by the incident commander as necessary.

---

<sup>1</sup> "Officers" includes all sworn members of all ranks and is used for brevity.

<sup>2</sup> This includes the portable video recording devices assigned each of the Department's armored vehicles, but might include additional devices purchased for armored vehicles in the future.



### **After Action and Documentation of Deployments**

Commanders authorizing deployment of an armored vehicle shall notify their chain of command of the deployment as soon as is practical after the incident has been resolved. A commander who authorizes the deployment of an armored vehicle for purposes other than training or maintenance shall email notification to all OPD commanders (e.g. DL – OPD Command). The email shall include a brief synopsis of the incident along with at least the following details:

- Date, time, and location
- Report and incident numbers
- Incident commander and tactical commander (if applicable)
- Scene supervisor(s)
- Which armored vehicle(s) were used
- Justification for deployment of the armored vehicle(s)
- Other specialized resources used (e.g. helicopter, canine)
- Demographic information about persons engaged at the target location (e.g., gender, race, age, membership in a vulnerable population)
- Presence or absence of media
- Description of arrests, injuries, uses of force, complaints, and/or property damage

Notifications of deployment shall include dissemination of information to the Department PIO and through Department social media channels. The commander of the Special Operations Section shall maintain a record of all deployments and ensure that information about all deployments (both callout and pre-planned), including for each of the above data points, is included in the division's Annual Management Report. Dispatch shall make a log entry in incident notes when an armored vehicle is deployed in a call-out (i.e. not pre-planned), for tracking and documentation purposes.