



**POLICE ACCOUNTABILITY BOARD
REGULAR MEETING SUPPLEMENTAL PACKET #2
Wednesday, April 17, 2024
6:30 P.M.**

Board Members

**John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes**

**Leah Wilson (Vice-Chair)
Julie Leftwich
Joshua Cayetano**

MEETING LOCATION

**North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709**

[\(Click here for Directions\)](#)

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Item 9.b.

ODPA Memorandum Titled “[RECOMMENDATION]
Re: Berkeley Police Department’s Military
Equipment



MEMORANDUM

Date: Tuesday, April 16, 2024

To: Honorable Members of the Police Accountability Board (PAB)

From: Hansel Aguilar, Director of Police Accountability (DPA) *HA*
Jose Murillo, Program Analyst *JM*

Subject: [RECOMMENDATION] Re: Berkeley Police Department's Military Equipment

This memorandum provides an overview of the reporting requirements for the Berkeley Police Department's (BPD's) compliance with Assembly Bill (AB) 481¹ and BPD Policy 709 Military Equipment² and the Police Accountability Board's (PAB) duties related to compliance review pursuant to the provisions of those policies. Additionally, the Office of the Director of Police Accountability (ODPA) provides a recommendation to the PAB for potential collaboration with the BPD to ensure community engagement and review of the annual report as required by AB 481.

Background:

On September 30, 2021, California Governor Gavin Newsom approved AB 481, now California Government Code 7070 – 7075³. This statute mandates that law enforcement agencies obtain approval from the relevant governing body (City Council) by

¹<https://legiscan.com/CA/text/AB481/id/2435304>

²https://berkeleyca.gov/sites/default/files/2022-05/709-Military_Equipment%2811%29.pdf

³https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=7.&title=1.&part=&chapter=12.8.&article=

adopting a military equipment use policy before funding, acquiring, or utilizing military equipment as defined in AB 481. Similar to the provisions of the Police Equipment and Community Safety Ordinance⁴, this law establishes an approval process for the continued use of military equipment already in possession by law enforcement agencies.

In compliance with AB 481, the BPD developed Policy 709, the Military Equipment policy, which received approval from the City Council on July 26, 2022.

Additionally, akin to Berkeley's Police Equipment and Community Safety Ordinance, AB 481 mandates that law enforcement agencies submit an annual report to the governing body detailing each type of military equipment they possess. The required information in the annual report under AB 481 closely resembles that outlined in the City of Berkeley ordinance. Furthermore, AB 481, requires⁵ California police departments to,

“hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.”⁶

The convening of this community engagement meeting is mandatory within 30 days of submitting and publicly releasing the report. Unlike, Berkeley's Police Equipment and Community Safety Ordinance, however, there is no requirement under the BPD policy, the Berkeley Ordinance, or state code that the corresponding oversight entity (in our case- the PAB) review and or recommend approval or denial to the governing body.

On March 15, 2024, a Public Records Act (PRA) request was filed with the City of Berkeley through the Next Request Portal, under the label PRA Request Number 24-378⁷. The request sought "all minutes for any AB 481 Community Engagement Meetings

⁴ [Ch. 2.100 Police Equipment and Community Safety Ordinance | Berkeley Municipal Code](#)

⁵ This language is echoed in BPD Policy 709.8 COMMUNITY ENGAGEMENT: “Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.”

⁶ California Government Code Section 7072(b):

https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=7.&title=1.&part=&chapter=12.8.&article=

⁷ Request 24-378 specifically asks “Please release all minutes for any AB 481 Community Engagement Meetings that the Berkeley Police Department has hosted since 2022. If any exist, please release all recordings of any AB 481 Community Engagement Meeting”

that the Berkeley Police Department has hosted since 2022." The BPD and the ODP, both designated as responding departments, determined that there were no responsive records.

Recommendation:

The recent PRA request and subsequent response prompted a closer review of the military equipment annual report review. Given the importance of the community engagement meeting provision outlined in AB 481 and BPD Policy 709.8, the ODP acknowledges this as an opportunity to collaborate with the BPD to ensure compliance with all AB 481 requirements and facilitate the community's involvement in the report review process. To that end, the ODP recommends that the PAB work with the BPD to cohost a community engagement meeting to review the annual report. A recommended agenda is provided below.

Tentative Agenda:

1. **Opening Remarks** (10 minutes)
 - **Speaker:** Chairperson of the Police Accountability Board (or designee)
 - **Overview:** Brief introduction to the purpose of the meeting and an outline of the agenda.
2. **Presentation of the Annual Military Equipment Report** (20 minutes)
 - **Speaker:** A senior representative from the Berkeley Police Department
 - **Overview:** A detailed presentation of the current military equipment inventory, the rationale for its use, and compliance with state regulations.
3. **Panel Discussion on Military Equipment Use and Deployment** (30 minutes)
 - **Moderator:** Director of Police Accountability
 - **Panelists:**
 - A member of the Police Accountability Board
 - A representative from the Berkeley Police Department
 - A community representative or trusted voice knowledgeable about police oversight
 - **Overview:** Discussion on the impact of military equipment on community safety and trust, including an overview of oversight mechanisms.
4. **Community Q&A Session** (40 minutes)

- **Facilitator:** A neutral party, possibly a local university professor or journalist with experience in moderating public forums
 - **Overview:** An open floor for community members to ask questions directly to the panelists regarding the use of military equipment and related policies.
5. **Closing Remarks and Next Steps** (10 minutes)
- **Speaker:** Chairperson of the Police Accountability Board
 - **Overview:** Summary of the discussions, responses to community concerns, and outline of follow-up actions based on the input received.

Potential Moderators or Speakers:

- **Moderator for Panel Discussion:** Consider inviting a local university professor with expertise in criminal justice or a journalist who has covered police and community relations extensively. This person should be perceived as impartial and knowledgeable.
- **Community Representative:** A leader from a local civil rights organization or a community trusted voice with a background in advocating for police reform and accountability.

Implementation Considerations:

- Ensure all promotional materials and communications about the meeting highlight the interactive nature of the event, encouraging robust community participation.
- Provide options for remote participation, such as a live Zoom stream or a call-in number, to maximize accessibility.
- Plan for language interpretation services if there is a significant non-English speaking population in the community.

Announcement

51st Anniversary of Civilian Oversight of Law Enforcement in Berkeley



Thank you for
Supporting 51 Years of
Civilian Oversight of
Law Enforcement in
Berkeley

April 17, 1973 - April 17, 2024