



**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING AGENDA PACKET  
SUPPLEMENTAL NO. 1**

**April 23, 2025  
6:30 PM**

**Board Members**

Joshua Cayetano (Chair)                      Leah Wilson (Vice-Chair)  
Kitty Calavita                                      Juliet Leftwich  
David Williams                                      Randy Wells  
Macharia Edmonds

**MEETING LOCATION**

Office of the Director of Police Accountability  
1900 Addison Street, Floor 3  
Berkeley, CA 94704

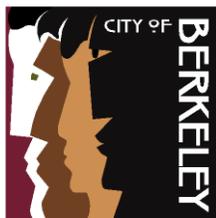
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## SUPPLEMENTAL MATERIAL

## Item 10.a.

## Additional Materials:

- July 23, 2018 Staff Report Titled “Agreements with Other Law Enforcement Agencies, Police Departments or Private Security Organizations; Approval of MOU Compendium”
  - BPD Policy 415 “Immigration Law”



Office of the City Manager

PUBLIC HEARING

July 23, 2018

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Andrew Greenwood, Chief of Police

Subject: Agreements with Other Law Enforcement Agencies, Police Departments or Private Security Organizations; Approval of MOU Compendium

RECOMMENDATION

Conduct a public hearing, and upon conclusion, adopt a Resolution approving agreements, understandings or policies existing or revised as of December 1, 2017 between the Berkeley Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies, police departments and private security organizations, as contained in the attached Memorandum of Understanding Compendium, in order to maintain the current level of police resources and emergency services. Review attached Suspicious Activity Report and Mutual Aid requests/responses provided annually per City Council request.

FISCAL IMPACTS OF RECOMMENDATION

The fiscal impact of not approving these inter-agency agreements and understandings is difficult to determine. Without inter-agency cooperation and assistance, major costs would be incurred in the event of critical incidents or disasters (e.g., major criminal investigations, riot situations, earthquakes, fires, terrorist attacks).

One example of a tangible fiscal impact includes the use of the Alameda County Sheriff's Office laboratory for analysis of seized illegal drugs and forensic examination of other evidence. The City does not have facilities capable of performing this service and, therefore, contracts with the County and private facilities for particular evidence analysis services. Notwithstanding other forensic analysis services, Alameda County's laboratory is the primary examiner of drug evidence for the Police Department. As analysis of seized drugs and other evidence is required for prosecution of offenders, the City's agreement with the Alameda County Sheriff's Office must be approved for the work to continue. Conveying all analytical and forensic services to a private laboratory would increase costs.

Approval of a given agreement will continue to support current law enforcement activity, funded in the existing budget. Non-approval may create a specific budget savings, but will increase related investigative costs. Costs associated with the adverse effect on involved victims and families, and public safety should offenders go unprosecuted, cannot be calculated.

The cost, or lack thereof, of each agreement or understanding is set forth in the summary of each in the attached MOU Compendium.

### BACKGROUND

Berkeley Municipal Codes §§2.04.150 – 2.04.210 require that the Police Department must obtain City Council approval of agreements, understandings or policies regarding mutual aid, information sharing, and cooperation and assistance between the Berkeley Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies, police departments and private security organizations. These provisions came into effect under Ord. 4640 NS §1, 1973, requiring annual City Council approval.

The City Council last approved the MOU Compendium on March 14, 2017, for all contents except sections 3.12 (NCRIC) and 3.6 (UASI), which were approved on June 20, 2017. This report puts the Police Department in compliance with the Ordinance requirement. The Police Department conducts an annual review process, and presents agreements and understandings to Council each calendar year, in accordance with the above BMC provisions.

Agreements, understandings or policies associated with this report were shared with the Police Review Commission prior to preparation of this report, and were subject to their review from December 1, 2017 through the present. Department responses to subsequent PRC recommendations are included later in this report.

### CURRENT SITUATION AND ITS EFFECTS

A majority of these agreements have been in effect for a number of years and are routinely reviewed and updated. As a result, daily law enforcement functions run smoothly. Difficulties that might arise are easily dealt with due to the mutual cooperation and understanding between agencies. Were it not for these agreements and general operational understandings, efficiency and effectiveness of service delivery would suffer.

Below is a list of the agreements which were updated or rescinded after August 4, 2016:

#### **No change to the agreement, but the date and signature have been updated:**

- 1.4 Alameda County District Attorney's Office - Victim/Witness
- 1.6 Alameda County Sheriff's Office Narcotics Task Force
- 2.15 Law Enforcement Consent Authorization
- 2.16 California Sex and Arson Registry
- 4.3 A Safe Place

#### **Minor changes to the agreement:**

- 1.13 Alameda County District Attorney's Office - HEAT (Human Exploitation and Trafficking). The agreement maintains its scope and meaning but more thoroughly describes BPD's participation in HEAT related meetings.
- 2.5 California Department of Corrections - Parole Division: The cover page has been updated to refer to policy I-16 "Mentally Disordered Persons" (instead of I-17 which was rescinded).

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- 2.9 California Department of Justice (DOJ) - California Law Enforcement Teletype System (CLETS): There are minor grammatical changes, but the agreement maintains its scope and meaning, and the dates and signatures have been updated.
- 4.2 Critical Reach: The yearly price has been updated from \$780 to \$825.

**City-or State-initiated changes to its own procedure:**

- 2.13 California Emergency Management Agency / Law Enforcement Mutual Aid (LEMA) Plan: The State of California updated its mutual aid plan. This plan replaces the 2009 LEMA plan.
- 6.2 COB Disaster Management Plan: The City of Berkeley updated its Disaster Management Plan. This plan replaces the 2004 plan (the new plan was previously approved by City Council on 4/25/17 Resolution 67-901 N.S.).

**Rescinded agreements:**

- 1.18 Hayward PD - AVOID THE 21: The agreement expired on September 20, 2016 and will not be renewed.
- 4.4 National Insurance Crime Bureau: The agreement expired on June 20, 2013 and will not be renewed.

RATIONALE FOR RECOMMENDATION

The Berkeley Police Department provides law enforcement services to community members and visitors within the City of Berkeley. It does so under the guidance of federal, state and local statutes. Maximum operational and investigative resources must be available to ensure a just system of law enforcement. That cannot be accomplished without the cooperation of other local, state and federal law enforcement agencies, military and/or intelligence agencies, police departments and private security organizations.

It takes large numbers of personnel and significant logistical resources to effectively and successfully contain and manage major critical incidents or disasters. Only through a system of mutual aid established by the State and coordinated through the County can we hope to respond in a suitable manner. Furthermore, Federal law requires that National Incident Management System (NIMS) guidelines must be followed to be eligible for Federal Emergency Management Agency (FEMA) disaster funding and/or reimbursement.

In addition, many agencies or entities such as the University of California, Bay Area Rapid Transit, East Bay Regional Parks, California Highway Patrol and Union Pacific Railroad, have concurrent jurisdiction over areas, buildings or structures located within Berkeley's city limits. Agreements are needed to ensure smooth cooperation between all of these agencies. In some cases, written agreements are required to comply with State law.

ENVIRONMENTAL SUSTAINABILITY

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

**BPD RESPONSE TO THE POLICE REVIEW COMMISSION'S RECOMMENDATIONS:**

On December 13, 2017 the PRC voted to approve all of the agreements within this compendium with the exception of the four following Compendium sections. These four sections had not been updated or amended in 2017, and were all approved by the City Council on March 14, 2017 and June 20, 2017. In their March 14, 2018 letter to Council, the PRC made four recommendations regarding these four sections of the MOU Compendium, see attachment #5. We include their recommendations below, along with our responses:

**1. MOU Compendium Item 3.6: Agreement with the City & County of San Francisco for the Distribution of UASI Grant Funds :**

In the March 14, 2018 letter to Council, the PRC recommended:

*“BPD cease participation in the Urban Shield activity beginning with the 2018 activity. Search for, or create in partnership with other communities, alternatives to replace the positive elements of Urban Shield.”*

**BPD RESPONSE:**

Participation in Urban Shield is not governed by the Fiscal Agent Agreement contained under section 3.6 of the MOU Compendium. As of December 1, 2017, the Fiscal Agent Agreement in section 3.6 provided for the receipt of grant funds to purchase an armored van. As of this report date, the van was purchased, and grant funds have since been received by the City. The Fiscal Agent Agreement—originally set to expire on February 28, 2018 and later extended to May 31, 2018—has expired.

**2. MOU Compendium Item 3.12: Berkeley Police Department Relationship with Northern California Regional Intelligence Center (NCRIC) As Governed by General Order N-17:**

In the March 14, 2018 letter to Council, the PRC recommended:

*“A one year moratorium on BPD’s participation with NCRIC while PRC reviews the City Manager/BPD-supplied information about how the BPD-NCRIC relationship functions”.*

**BPD RESPONSE REGARDING NCRIC:**

Item 3.12 refers to BPD General Order N-17, which provides guidance on how and when BPD can obtain and share information with NCRIC. There is currently no written agreement or memorandum of understanding with NCRIC.

The Northern California Regional Intelligence Center partners with federal, state and local public safety agencies and coordinates the sharing of criminal intelligence. BPD may receive and share confidential, "law enforcement sensitive" and/or "for official use only" public-safety-oriented information with NCRIC to facilitate criminal investigations or to promote the safety of the community and/or law enforcement.

### **NCRIC / INFORMATION SHARING**

Currently approximately 135 members of the police department receive NCRIC's Bulletins. These bulletins consist of general officer safety information, such as when a weapon is concealed in an unusual way, and descriptions of unusual occurrences across the state.

BPD officers are able to utilize NCRIC's Automated License Plate Recognition (ALPR) system. These queries are an investigative tool, used to develop leads on suspect vehicles, and to identify and locate offenders after an incident has occurred.

For 2017 there were 208 queries by 17 different police officers.

For 2018 as of 6/18/18, there have been 176 queries by 16 different police officers.

All officers are required to submit their reason for their access, (e.g. a case number), and that information is later audited by the IT department at NCRIC.

### **NCRIC / Suspicious Activity Reports (SARS)**

BPD submits SARS to NCRIC. The criteria for a Suspicious Activity Report is outlined in General Order N-17. SARS submittal history:

- 2012-2013: 11 reports (submitted to City Council in the 10/15/13 Report)
- 2014: 5 reports (submitted to City Council in the 10/28/14 Report)
- 2015: 2 reports (submitted to City Council in the 12/1/15 Report)
- 2016: 1 report (submitted to City Council in the 3/14/17 Report)
- 2017: 4 reports (submitted to City Council / attached hereto as attachment #3)

Compendium Item 3.12 was revised in 2017 for clarity. The agreement cover page states that the relationship between the NCRIC and the Berkeley Police Department is described within Berkeley Police Department General Order N-17.

- N-17 outlines policy and procedures for participating with NCRIC, and provides detailed language for the Suspicious Activity Report (SAR) process.
- N-17 Section 5 states, "Non-violent civil disobedience is specifically exempted from SARs reporting, and such activities shall not be reported as SARs.
- N-17 Section 6 states, "SARs must not be submitted based on ideology, social or political opinion or advocacy of religious beliefs or association with a particular group."

Following work with the Council's AdHoc Subcommittee on NCRIC and Urban Shield, the Police Department will amend and expand General Order N-17 (and Item 3.12's cover page) in late 2018 with additional information, designed to improve transparency and understanding of the Department's interaction with NCRIC, including:

- A description of NCRIC;

- A discussion of the kinds of informational bulletins and alerts officers receive from NCRIC;
- Information on the Terrorism Liaison Officer program; and
- A description of how officers use NCRIC's License Plate Reader (LPR) data in supporting criminal investigations.

Additionally, the Department will seek to enter into a formal written memorandum of understanding with NCRIC; this MOU or agreement would be fully incorporated into this section of the MOU Compendium.

### **3. MOU Compendium Item 6.3: Mutual Aid and Agreements with Law Enforcement Agencies, Policy Document:**

In the March 14, 2018 letter to Council, the PRC recommended:

*"... direction to BPD to modify its General Order M-02, "Mutual Aid and Agreements with Law Enforcement Agencies" as follows:*

*Add a new paragraph in the Procedures section after Paragraph 6, to reflect the City Council's direction on supervision of mutual aid agencies, passed in 1992, that: "[T]he BPD take direct supervisory responsibility for all mutual aid units deployed to the maximum amount allowable by law: ... prior to deployment in the field, BPD notify mutual aid units of significant BPD crowd management regulations and policies - especially those regarding use of force and reporting policies - and advise such units that they will be expected to comply with those regulations and policies; ... "*

#### **BPD RESPONSE:**

We note this recommendation was not addressed through the PRC's Mutual Aid Pacts Subcommittee process, but rather brought to the full commission. Current policy as contained in the current Law Enforcement Mutual Aid provides for the host agency to be "in charge" of the responding agencies, to coordinate with agencies "an effective application of forces," while "The integrity of responding forces and the policies and procedures of their departments must be maintained." Current BPD policies and the contemporary Mutual Aid plans have proven effective in event management.

In its recommendation, the PRC references a 1992 City Council direction which added language to the 1992 and 1995 Event Management Manuals. However, the manuals contained the following contradictory statements:

1. Section 10.3.0 stated, "While operating within the City of Berkeley, mutual aid officers remain under the supervision, command and control of their own departments.
2. Section 10.4.0 stated. "Prior to deployment, mutual aid officers should be briefed regarding the situation and Berkeley Police Crowd Management regulations and policies, especially those regarding the use of force. The mutual aid officers will be advised that they are expected to comply with the Berkeley Police Department regulations and policies. Before any deployment, steps will be taken to resolve

differences between BPD practices and those of the out agency. If significant differences remain, the BPD Operations Commander may elect not to deploy the affected units.”

3. Section 10.6.0 stated “[Berkeley] officers operating in other jurisdictions under mutual aid shall adhere to the Police Regulations, General Orders, and other policies and procedures of the Berkeley Police Department.”

The Event Management Manual was replaced by General Order M-02 in 1995. Both the 1995 and 2012 versions of General Order M-02 state, *“Berkeley Police Department employees are expected to follow the procedures of the California Law Enforcement Mutual Aid (LEMA) Plan as well as the written agreements made with other law enforcement agencies.”*

Over the years, the City Council has consistently approved MOU Compendium Section 2.13, which contains the LEMA plan.

The LEMA plan states, *“Unless otherwise expressly provided, or later agreed upon, the responsible local law enforcement official of the jurisdiction requesting mutual aid shall remain in charge. It is operationally essential that the local law enforcement official coordinate all actions with responding law enforcement agencies to ensure an effective application of forces (8618 GC). The integrity of responding forces and the policies and procedures of their departments must be maintained. Exceptions will require approval of the concerned department. Refer to the Law Enforcement Guide for Emergency Operations for further policy guidance.”*

The Law Enforcement Guide for Emergency Operations states,

1. (Page 59) *“Individual officers are bound by use of force policies of their employing agency. However, use of less-lethal devices (e.g., chemical agents, Tasers, ARWEN, Sting balls, or Stun bags) should be used decisively when the situation dictates. Firearms: Every officer assigned to a Mutual Aid Response Mobile Field Force shall carry a firearm in accordance with their employing agency’s policies and procedures. Minimum departmental standards for qualification must be met.”*
2. (Page 62) *“Once given a mission, the OIC establishes the method to accomplish the mission. In developing the plan, the OIC must remain within the policies established by the Incident Commander’s Incident Action Plan.”*
3. (Page 69) *“An “agency specific” Operations Plan is particularly valuable in Unified Command incidents, where multiple agencies are operating under a single Incident Action Plan. The Operations Plan can focus on policies and procedures specific to individual agencies responsible for a designated mission or objective(s).”*
4. (Page 72) *“Law enforcement agencies may desire to utilize operations plans that are more “specific” to internal policies and procedures. In these situations, it is important*

*that operations plans are based on common action planning objectives, thus ensuring consistency and coordination between all agencies and disciplines involved in the response.”*

Thus, when agencies respond to Mutual Aid requests, they respond with the policies and procedures they have been trained with, all in support of the host agency’s Operation Plan. **Just as our Department does not step away from its own policies, tools, and tactics when providing mutual aid in another jurisdiction, one would not expect outside agencies to set aside their own policies, procedures, tools and/or training.**

Whether seeking mutual aid assistance in a planned event or an emergency assistance context, *mandating* agencies to follow all BPD policies is neither practical nor possible in the context of modern mutual aid management and response.

It is important to understand that a fundamental element of managing large scale planned events in a Joint Command structure with mutual aid partners is that the host agency communicates its desired operational goals and outcomes through the Operations Plan, and ensures these are reviewed understood by mutual aid partners. These goals, and the underlying strategies and tactics are discussed. Through this process, concerns about force and reporting issues, among others, can be addressed and resolved. This process generally occurs well in advance of a planned event, thus allowing time for issues and concerns to be resolved.

BPD policies relating to managing large scale events, including General Order M-2 Mutual Aid and Agreements with Law Enforcement Agencies, C-64 First Amendment Assemblies, and U-2 Use of Force, have all proved effective in guiding Department operations through several large-scale planned events in 2017. Operating in a Joint Command structure, involved agency commanders work together to achieve the goals of the host agency’s Operations Plan. Commanders coordinate the deployment of resources and consider potential uses of force in accordance and in alignment with the goals of the Operations Plan. General Order M-2 as currently written, considered in conjunction with other BPD policies and the LEMA plan, provides a strong and proven structure for the Department’s work in Mutual Aid events. Given the above information, we believe amending GO M-2 is not necessary to ensure that the Department’s event management operations are conducted in a manner reflecting our community’s standards.

**4. MOU Compendium Item 3.4: Federal; Department of Homeland Security, U.S. Immigrations and Customs Enforcement (USICE):**

In the March 14, 2018 letter to Council, the PRC recommended to:

*“Approve the ICE MOU with the proviso that it be modified to reflect the following: BPD shall not provide stand-by security service for USICE investigations or enforcement actions or otherwise be involved in any way with facilitating or aiding in an ICE operation. This shall not prevent BPD from responding to a public safety emergency related to an ICE action; in such event BPD shall explain the facts giving rise to its*

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*action in a written report to the Berkeley City Council and the Police Review Commission at the earliest opportunity.”*

**BPD RESPONSE:**

Item 3.4 reflects a general understanding regarding interactions with Immigration and Customs Enforcement (ICE); there exists no MOU.

With the next MOU Compendium, Section 3.4 will incorporate a new Berkeley Police General Order which specifically governs all aspects of immigration enforcement, including policy set by Council, and recent state law. As of this writing, the new general order is in the final stages of legal review, and we expect issuance to occur by September 1. Accordingly, the Police Department will amend MOU Section 3.4's cover page to reflect the new General Order, which will:

- Incorporate Council's actions with regards to our community being a "Sanctuary City";
- Incorporate the provisions of SB54 The California Values Act are codified in BPD policy; and
- Incorporate provisions of AB2792 the Transparent Review of Unjust Transfers and Holds (TRUTH) Act.

CONTACT PERSON:

Andrew Greenwood, Chief of Police, 510-981-5900

Attachments:

1. Resolution  
Exhibit A:  
Attachment 1: MOU Compendium Preface  
Attachment 2: MOU Compendium (Voluminous File)
2. Public Hearing Notice
3. SARS Report
4. Mutual Aid Report
5. The PRC's 3/14/18 Letter to Council

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RESOLUTION NO. XX,XXX-N.S.

APPROVING AGREEMENTS, LETTERS AND MEMORANDA OF UNDERSTANDING OR POLICIES, REVISED AND UPDATED AS OF DECEMBER 1, 2017, WHICH EXPRESS TERMS AND CONDITIONS OF MUTUAL AID, INFORMATION SHARING, COOPERATION AND ASSISTANCE BETWEEN THE BERKELEY POLICE DEPARTMENT AND ALL OTHER LOCAL, STATE AND FEDERAL LAW ENFORCEMENT, MILITARY AND/OR INTELLIGENCE AGENCIES, POLICE DEPARTMENTS OR PRIVATE SECURITY ORGANIZATIONS

WHEREAS, the Berkeley Police Department has established written and verbal agreements, understandings and policies with other law enforcement agencies, police departments and other private security organizations; and

WHEREAS, such agreements, understandings and policies are needed to enhance investigative resources and emergency services provided to the citizens of Berkeley, creating a safer environment for all; and

WHEREAS, many of these agreements, understandings and policies have been in existence and approved by City Council since 1974.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves the agreements, understandings and policies existing between the Berkeley Police Department and other law enforcement agencies as set forth in City Manager Report dated July 24, 2018, a copy of which is attached hereto, marked Exhibit A and made part hereof.

BE IT FURTHER RESOLVED that record copies of aforementioned documents to be on file in the Office of the City Clerk, and be available electronically via the City of Berkeley website.

Exhibit A:

Attachment 1: MOU Compendium Preface

Attachment 2: MOU Compendium



## Immigration Law

### 415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Berkeley Police Department relating to immigration and interacting with federal immigration officials. This policy includes elements from the California Government Code 7284, also known as the California Values Act, and from Berkeley City Council Resolution No. 68,131-N.S., "City of Refuge Policy Regarding Interaction with U.S. Immigration and Customs Enforcement".

#### 415.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

**Criminal immigration violation** - Any federal criminal immigration violation that penalizes a person's presence in, entry or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

**Judicial warrant** - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

### 415.2 POLICY

It is the policy of the Berkeley Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public, in compliance with California law and Berkeley City Council policy. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

### 415.3 CITY COUNCIL RESOLUTIONS

The City of Berkeley was declared by City Council resolution to be a City of Refuge in 1971. Subsequent City Council resolutions in 1986, 2007, and 2016 reaffirmed and built upon the original policy. Most recently, on July 25, 2017, City Council provided city-wide policy under Resolution 68,131-N.S., which is incorporated within this policy in full below:

1. No department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information status of individuals in the City of Berkeley unless required by law.
2. No department agency, commission, officer or employee shall deny access to any City services or benefits to residents on the basis of their immigration status.
3. The prohibition set forth shall include but is not limited to:
  - (a) Assisting or cooperating, in one's official capacity, with any Department of Homeland Security (DHS) investigation, detention, or arrest procedures, public or clandestine, relating to alleged violations of the civil provision of federal immigration law, except as required by law.

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- (b) Requesting information about, or disseminating information regarding, the immigration status of any individual, except as required by law.
- (c) Including on any application, questionnaire or interview form used in relation to benefits, services or opportunities provided by the City of Berkeley any question regarding immigration status.
- (d) It is the policy of the City of Berkeley to not allow any individual or organization to enter City facilities if their presence would disrupt city operations. Because the City Council believes that ICE activities in city facilities would constitute a severe disruption to the provision of city services, any request by ICE to any City officer or employee shall be immediately forwarded to the site director/supervisor and the Department Director for review and consultation with the City Attorney to ensure the safety of City employees and residents accessing city services and compliance with applicable state and federal laws.
- (e) Except in limited circumstances where ICE agents have a valid judicial warrant, after review and consultation with the Department Director and City Attorney, City departments, agencies, commissions, officers or employees are not required to:
  - Cooperate with ICE agents
  - Answer ICE agents' questions
  - Comply with an ICE Administrative Warrant
  - Immediately comply with a subpoena served by ICE agents
  - Speak with ICE agents at all
- (f) City officers or employees shall not consent to a warrantless search by ICE agents of a non-public area or non-public City records
- (g) Employees must immediately notify site director/supervisor to report the interaction or warrants served. The site director/supervisor must immediately notify the Department Director for review and consultation with the City Attorney.
- (h) If any City resident has questions regarding their immigration status, City staff shall not refer them to Immigrations and Customs Enforcement or any other government agency. Instead City staff shall refer such individuals to local non-profit immigration law organizations. A list of such organizations shall be compiled and disseminated at City buildings and on the City's website. The City Manager is also encouraged to increase and enhance partnerships with community-based organizations, legal service providers, and educational institutions to provide resources for families and City residents facing deportation or other adverse immigration actions.
- (i) All requests for documents by ICE to City personnel shall be immediately forwarded to the Department Director for review and consultation with the City Attorney to ensure the safety of City employees and residents, and compliance with applicable state and federal laws.

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### **415.4 VICTIMS AND WITNESSES**

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or interacting with members of the Berkeley Police Department will not automatically lead to an immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members of the Berkeley Police Department shall treat all individuals equally and without regard to race, ethnicity or national origin in any way that would violate the United States or California constitutions.

### **415.5 IMMIGRATION INQUIRIES PROHIBITED**

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

#### **415.5.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)**

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

#### **415.5.2 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES**

Members shall not obtain, access, use, or otherwise disclose noncriminal history information maintained by the DMV for immigration enforcement (Vehicle Code § 1808.48).

### **415.6 DETENTIONS AND ARRESTS**

An officer shall not investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including: inquiring into an individual's immigration status; detaining an individual on the basis of a hold request; providing information regarding a person's release date in response to a notification request from immigration authorities; providing personal information about an individual including but not limited to the individual home address or work address; making or participating in arrests based on civil immigration warrants; assisting immigration authorities in enforcement activities, or performing the functions of an immigration officer. (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws, or a related civil warrant, or for any violation of federal immigration laws (Government Code § 7284.6).

### **415.7 FEDERAL REQUESTS FOR ASSISTANCE**

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration Enforcement and Removal Operations (ERO) officials for assistance from this department should be immediately directed to the Watch Commander. ICE's ERO is the principal

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immigration enforcement division. The Watch Commander shall be responsible for determining whether the requested assistance would be permitted under City policy and the California Values Act (Government Code § 7284.2 et seq.). The Watch Commander shall decline requests for assistance from ERO officials for immigration enforcement purposes, and notify the Chief of Police through the chain of command regarding the request as soon as practical.

Should a request be received for an urgent issue of officer safety or other emergency circumstance, the Communications Center should notify the Watch Commander or senior sergeant on duty, who should coordinate a response in order to make a scene safe, respond to the scene to manage the incident, and notify the Chief of Police through the chain of command as soon as practical.

Should a request be received for operational assistance from ICE's Homeland Security Investigations (HSI) unit, the Commander shall convey the request to the Chief of Police through the chain of command for consideration. HSI investigates transnational crimes which can imperil local community safety, such as Counter-Terrorism, Child Exploitation, Human Trafficking/Human Smuggling and Transnational Gangs and Narcotics Trafficking. Assistance may be provided so long as the other provisions of this policy are followed.

#### 415.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may only be made in connection with an outstanding criminal warrant.

#### 415.7.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with an advisement that the Berkeley Police Department will not comply with the request (Government Code § 7283.1).

If, pursuant to court order, the Berkeley Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1). Unless required by federal or state law, or court order, the Berkeley Police Department shall not provide information to ICE about an individual's release date.

#### 415.7.3 ICE INTERVIEWS

The Berkeley Police Department shall not provide ICE personnel access to the Berkeley jail to interview any individual in custody about civil immigration violations.

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### 415.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members of the Berkeley Police Department shall not transfer an individual to immigration authorities.

### 415.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Detective Bureau Lieutenant or his/her designee shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Supervisor for required reporting to the DOJ (Government Code § 7284.6(c)(2) - see also the Records Management Policy).

### 415.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status shall be forwarded in a timely manner to the Support Services Division Captain or his/her designee. The Support Services Division Captain or his/her designee shall:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
  1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
  2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). The certification shall be completed and not refused for the specified reasons in Penal Code § 679.10(k)(3).
  3. Form I-914 Supplement B declaration shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking). The declaration shall be completed and not refused for completion for the specified reasons in Penal Code § 679.11(j)(3).
  4. Forward the completed Form I-918 Supplement B certification or completed Form I-914 declaration B to the victim, family member, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) without requiring the victim to provide government-issued identification (Penal Code § 679.10; Penal Code § 679.11)

# Berkeley Police Department

Law Enforcement Services Manual

## *Immigration Law*

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- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.
  - 1. If Form I-918 Supplement B is not certified, a written explanation of denial shall be provided to the victim or authorized representative. The written denial shall include specific details of any reasonable requests for cooperation and a detailed description of how the victim refused to cooperate (Penal Code § 679.10).
- (e) Inform the victim liaison of any requests and their status.

### 415.8.1 TIME FRAMES FOR COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

### 415.8.2 REPORTING TO LEGISLATURE

The Support Services Division Captain shall ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

### 415.9 TRAINING

The Policy & Training Sergeant shall ensure that all appropriate members receive training on this policy.

Training regarding this policy should include:

- (a) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).
- (b) Prohibitions contained in Berkeley City Council Resolution 68,131-N.S.
- (c) Procedures for evaluating and responding to emergency requests for assistance, requests from ERO officials, and requests from HSI officials.

SUPPLEMENTAL MATERIAL

Item 10.c.

ODPA Memorandum to the PAB Titled "Summary of PAB Request  
(October 2024 – April 2025)



## MEMORANDUM

**Date:** Tuesday, April 22, 2025  
**To:** Honorable Members Police Accountability Board (PAB)  
**From:** Hansel Aguilar, Director of Police Accountability (DPA) *HA*  
 Jose Murillo, Policy Analyst *JM*  
 Syed Mehdi, Data Analyst *SM*  
**Subject:** Summary of PAB Requests (October 2024 - April 2025)

This memorandum provides a summary of requests made by the Police Accountability Board (PAB) during seven meetings held between October 9, 2024, and April 9, 2025. Of these 21 requests, 8 have been completed, 11 remain open, and 2 were closed. The distribution of requests by stakeholder is as follows: 14 requests were directed to the Office of the Director of Police Accountability (ODPA), 6 to the Berkeley Police Department (BPD), 1 to the City Attorney's Office, and 1 to the Mayor's Office. This consolidated log is intended to support clearer tracking, coordination, and follow-up by all relevant parties.

### Legend

Completed	Request has been fulfilled and requires no further action.
Open	Request is still in progress or pending follow up/action
Closed	Request was withdrawn or is no longer being pursued.

### PAB Requests (Oct 2024 - April 2025)

Number	Meeting Date/Link	Request to	Request (Time Stamp)	Status/Note
1	10/9/2024 PAB Regular Meeting Recording: <a href="https://youtu.be/rogRpVzB1ec?s_i=kSEcDMNpQ0MI19I2">https://youtu.be/rogRpVzB1ec?s_i=kSEcDMNpQ0MI19I2</a>	ODPA/ BPD	PAB requested that the ODPA issue subpoenas for records related to Policy Review PRC 2487, PRC 2488, ODPA 17, and ODPA 19 pursuant to a policy,	Completed – ODPA issued subpoenas to BPD on October 18 <sup>th</sup> , 2024.  BPD responded pursuant to PAB's subpoenas on October 31, 2024 [detailed in an email from Chief Louis to Director Aguilar.]

	<p><b>10/9/2024 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2024-10-09%20Regular%20Meeting%20Minutes_Final_DPA%20signed.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2024-10-09%20Regular%20Meeting%20Minutes_Final_DPA%20signed.pdf</a></p>		<p>practices, procedures review.  <b>(2:52:36 - 3:00:16)</b></p>	
2	<p><b>10/30/2024 PAB Regular Meeting Recording:</b>  <a href="https://www.youtube.com/watch?v=xmZFcLjYdk">https://www.youtube.com/watch?v=xmZFcLjYdk</a></p> <p><b>10/30/2024 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2024-10-30%20Regular%20Meeting%20Minutes_final%20-%20signed.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2024-10-30%20Regular%20Meeting%20Minutes_final%20-%20signed.pdf</a></p>	BPD	<p>The PAB Requested all CHP 187A Forms from 2013–2020 and 2024 for policy review of BPD Policy 307 – Vehicle Pursuits.  <b>(1:49:02 - 1:51:20)</b></p>	<p>Open - The request is still active. During the 12/11/24 PAB meeting, Chair Cayetano noted that BPD stated it would take approximately six months to provide the CHP 187A data, as the data is currently in raw form and requires time to process.</p> <p>12/11/2024 PAB Regular Meeting  <a href="https://youtu.be/Nt_YPFOJ60Q?si=2QlcPzFP-mqApu9d">https://youtu.be/Nt_YPFOJ60Q?si=2QlcPzFP-mqApu9d</a>  <b>(42:25-45:02)</b></p> <p>Minutes:  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%2012-11-24%20PAB%20Regular%20Meeting%20Minutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%2012-11-24%20PAB%20Regular%20Meeting%20Minutes.pdf</a></p>
3	<p><b>1/8/2025 Regular Meeting Recording:</b></p>	BPD	<p>The PAB requested that the BPD reissue all current Memoranda of Understanding</p>	<p>Complete –</p> <p>The BPD has provided the last completed compendium of MoUs (2018). The BPD has indicated that</p>

	<p><a href="https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH">https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH</a></p> <p><b>1/8/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf</a></p>		<p>(MOUs) related to Section K.</p>	<p>the 2018 is the latest update to the collective agreements (and notes that some individual ones, like the UCPD have been updated since). There is active discussion about updating them:</p> <p>See ODPa April 4<sup>th</sup>, 2025 Memo: Item 9.b.          ODPa Memorandum Titled “Status Update on PAB Inquiry Regarding Recent Versions of the Berkeley Police Department’s Memorandums of Understanding (MOU) and Mutual Aid Agreements (MAA)”  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-09%20PAB%20Regular%20Meeting%20Pkt_Finalv2.pdf#page=30">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-09%20PAB%20Regular%20Meeting%20Pkt_Finalv2.pdf#page=30</a></p>
<p>4</p>	<p><b>1/8/2025 Regular Meeting Recording:</b>  <a href="https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH">https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH</a></p> <p><b>1/8/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf</a></p>	<p>ODPA</p>	<p>The Board requests that an amendment to Section K be scheduled for discussion by the full Board, rather than being limited to subcommittee review.  <b>(1:49:34 - 1:51:58)</b></p>	<p>Completed – ODPa provided a memo detailed in the 01/22/25 PAB Meeting, highlighting the process for reviewing the BPD’s mutual aid agreement as stipulated in Section K.</p> <p><b>Memo Link:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-01-22%20PAB%20Regular%20Meeting%20Packet.pdf#page=32">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-01-22%20PAB%20Regular%20Meeting%20Packet.pdf#page=32</a></p>

5	<p><b>1/8/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH">https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH</a></p> <p><b>1/8/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf</a></p>	ODPA	<p>The PAB requested that staff include in the recommendations section of policy reviews or in the bottom – include the number of policy reviews and the duration of their dependency  <b>(52:15 - 52:39)</b></p>	<p>Completed – The request was updated by the ODPa on its status sheet for the PAB as highlighted on the 2/05/25 Meeting agenda packet.</p> <p><b>Link:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-02-05%20PAB%20Regular%20Meeting%20Packet%20Amendment%200.pdf#page=71">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-02-05%20PAB%20Regular%20Meeting%20Packet%20Amendment%200.pdf#page=71</a></p>
6	<p><b>1/8/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH">https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH</a></p> <p><b>1/8/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf</a></p>	ODPA/ BPD	<p>The PAB requested that staff collaborate with the Berkeley Police Department prior to establishing a public-facing webpage containing information on Restraining Orders and related resources.  <b>(1:20:33 - 1:21:30)</b></p>	<p>Open - This request is still active.</p>

7	<p><b>1/8/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH">https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH</a></p> <p><b>1/8/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf</a></p>	ODPA	<p>The PAB requested a document compiling all recommendations that have been made to the BPD.  <b>(48:02 - 49:00)</b></p>	Open - This request is still active.
8	<p><b>1/22/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/wxhAU7qqI?si=TmlsIGzQpHilQD_d">https://youtu.be/wxhAU7qqI?si=TmlsIGzQpHilQD_d</a></p> <p><b>1/22/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/FINAL%202025-01-22%20Regular%20Meeting%20Minutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/FINAL%202025-01-22%20Regular%20Meeting%20Minutes.pdf</a></p>	ODPA	<p>The PAB requested that ODPa add categories for blockers, aspirational goals, and assigned staff to the status update sheet to improve visibility and transparency.  <b>(45:54 - 47:50)</b></p>	<p>Completed - This request has been completed and updated on Status Report sheets as highlighted in the Policy Review Status Report for the 02/05 PAB Meeting:</p> <p><b>Link:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-02-05%20PAB%20Regular%20Meeting%20Packet%20Amendment%200.pdf#page=71">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-02-05%20PAB%20Regular%20Meeting%20Packet%20Amendment%200.pdf#page=71</a></p>

9	<p><b>2/1/2025 PAB Special Meeting Recording:</b>  <a href="https://youtu.be/dlXg3dnH77w?si=DLau_Phk4WpmJsVW">https://youtu.be/dlXg3dnH77w?si=DLau_Phk4WpmJsVW</a></p> <p><b>2/1/2025 PAB Special Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-01%20Special%20Meeting%20Minutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-01%20Special%20Meeting%20Minutes.pdf</a></p>	ODPA	<p>The PAB requested that staff track the number of outstanding requests to the City Attorney's Office and report back to the Board and/or include the information in the annual report.  <b>(1:52:46 – 1:53:25)</b></p>	Open - This request is still active.
10	<p><b>2/5/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/ASMB3_LiNqQ?si=9U7v9LXxWnKSRn">https://youtu.be/ASMB3_LiNqQ?si=9U7v9LXxWnKSRn</a></p> <p><b>2/5/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-05-Regular%20Meeting%20Minutes_updated.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-05-Regular%20Meeting%20Minutes_updated.pdf</a></p>	ODPA	<p>The PAB requested that staff provide a brief memo summarizing significant police-related laws enacted in 2024 that are relevant to the Board's work.  <b>(14:05 - 14:50)</b></p>	<p>Completed – The request was completed by ODPa and added as “Legislative Updates Relevant to the PAB’s Work and was presented to the PAB during the 2/19/25 Board Meeting.</p> <p><b>Link:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-02-19%20PAB%20Regular%20Meeting%20Packet_Final.pdf#page=83">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-02-19%20PAB%20Regular%20Meeting%20Packet_Final.pdf#page=83</a></p>

11	<p><b>2/5/2025 PAB Regular Meeting Recording:</b></p> <p><a href="https://youtu.be/ASMB3_LiNqQ?si=9U7v9LXxWnKSRn">https://youtu.be/ASMB3_LiNqQ?si=9U7v9LXxWnKSRn</a></p> <p><b>2/5/2025 PAB Regular Meeting Minutes:</b></p> <p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-05-Regular%20Meeting%20Minutes_updated.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-05-Regular%20Meeting%20Minutes_updated.pdf</a></p>	ODPA	<p>The PAB requested:</p> <p>(1) a one-page summary on how MOUs are developed and renewed; (2) a review of whether AI can help analyze MOUs; (3) prioritization of immigration-related MOUs and Berkeley's sanctuary status; and (4) copies of any Homeland Security MOUs on immigration.</p> <p><b>(1:28:50 - 1:30:30)</b></p>	<p>Completed – The request was completed by ODPa as detailed in the memo 10.a. on the 4/23/2025 Agenda Packet.</p> <p><b>Memo Link:</b></p> <p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-17%20PAB%20Regular%20Meeting%20Packet.pdf#page=20">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-17%20PAB%20Regular%20Meeting%20Packet.pdf#page=20</a></p>
12	<p><b>2/19/2025 PAB Regular Meeting Recording:</b></p> <p><a href="https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL">https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL</a></p> <p><b>2/19/2025 PAB Regular Meeting Minutes:</b></p> <p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf</a></p>	ODPA	<p>The PAB requested that staff explore whether other agencies have comparable policies on conflicts of interest when officers are responding to calls made by a party who has filed a complaint against them.</p> <p><b>(1:11:30 - 1:12:08)</b></p>	<p>Open – In relation to 2025-PR-0001 This request is still active because the Board requested this as part of the policy review.</p>

13	<p><b>2/19/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL">https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL</a></p> <p><b>2/19/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf</a></p>	Mayor's Office	The PAB requested that staff coordinate with the Mayor's Office to obtain advance notice of meeting agendas. <b>(43:20 - 44:30)</b>	Open - This request is still active.
14	<p><b>2/19/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL">https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL</a></p> <p><b>2/19/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf</a></p>	ODPA	The PAB requested that the three-minute time frame for public comment be consistently upheld. <b>(1:51:20 - 1:51:56)</b>	Completed- The request was upheld in all meetings after the initial request.

15	<p><b>2/19/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL">https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL</a></p> <p><b>2/19/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf</a></p>	ODPA	<p>The PAB requested that a training compliance checklist be provided for current Board members.  <b>(1:41:01 - 1:45:44)</b></p>	<p>Completed – A memo highlighted from BM Cayetano includes all trainings mandating the training requirements for Board Members to ensure compliance.</p> <p>Memo Link:  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-02-19%20PAB%20Regular%20Meeting%20Packet_Final.pdf#page=77">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-02-19%20PAB%20Regular%20Meeting%20Packet_Final.pdf#page=77</a></p>
16	<p><b>3/5/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/X-c0A5Uc--0?si=JYVoTEGAN6i2C_2G">https://youtu.be/X-c0A5Uc--0?si=JYVoTEGAN6i2C_2G</a></p> <p><b>3/5/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-03-05%20Regular%20Meeting%20Minutes.v2.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-03-05%20Regular%20Meeting%20Minutes.v2.pdf</a></p>	ODPA	<p>The PAB requested that staff compile a complete list of identified MOUs.  <b>(1:22:14 - 1:23:00)</b></p>	<p>Completed – Staff has compiled a list of identified MOUS.</p> <p><b>Link:</b>  <a href="https://acrobat.adobe.com/link/review?uri=urn%3Aaaid%3Aascds%3AUS%3A3a637aa7-7359-45a1-81ed-dee245c93f83&amp;viewer%21megaVerb=group-discover">https://acrobat.adobe.com/link/review?uri=urn%3Aaaid%3Aascds%3AUS%3A3a637aa7-7359-45a1-81ed-dee245c93f83&amp;viewer%21megaVerb=group-discover</a></p>

17	<p><b>3/19/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/0xT6Jf7nMes?si=CU_5HrZ7iKEK2K1E">https://youtu.be/0xT6Jf7nMes?si=CU_5HrZ7iKEK2K1E</a></p> <p><b>3/19/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-03-19%20Regular%20Meeting%20Minutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-03-19%20Regular%20Meeting%20Minutes.pdf</a></p>	ODPA	<p>The PAB requested that staff draft a short memo regarding BPD's annuals report and the PAB's suggestions.  <b>(1:29:40 - 1:30:06)</b></p>	<p>Completed – The request was completed by ODPa detailing a memo on annual report recommendations presented during the 04/09/25 PAB Meeting.</p> <p><b>Memo Link:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-09%20PAB%20Regular%20Meeting%20Pkt_Finalv2.pdf#page=35">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-09%20PAB%20Regular%20Meeting%20Pkt_Finalv2.pdf#page=35</a></p>
18	<p><b>3/19/2025 PAB Regular Meeting Recording:</b>  <a href="https://youtu.be/0xT6Jf7nMes?si=CU_5HrZ7iKEK2K1E">https://youtu.be/0xT6Jf7nMes?si=CU_5HrZ7iKEK2K1E</a></p> <p><b>3/19/2025 PAB Regular Meeting Minutes:</b>  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-03-19%20Regular">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-03-19%20Regular</a></p>	BPD	<p>The PAB noted that it was previously mentioned that BPD training videos available for viewing. The PAB requested access to those videos from Deputy Chief Tate.  <b>(20:08 - 20:37)</b></p>	<p>Completed - This request is being marked as completed as Lt. Montgomery indicated that the videos are on YouTube.</p> <p><b>Link:</b>  <a href="https://www.youtube.com/@CaliforniaPOST">https://www.youtube.com/@CaliforniaPOST</a></p> <p><b>3/5/2025 PAB Regular Meeting (Initial Date of Request):</b>  <a href="https://www.youtube.com/watch?v=X-c0A5Uc--0&amp;t=4971s">https://www.youtube.com/watch?v=X-c0A5Uc--0&amp;t=4971s</a></p>

	<a href="#">%20Meeting%20Minutes.pdf</a>			
19	<p><b>4/9/2025 PAB Regular Meeting Recording:</b></p> <p><a href="https://youtu.be/HNdbV36FvB4?si=YBOS2cmP9aueS2Rq">https://youtu.be/HNdbV36FvB4?si=YBOS2cmP9aueS2Rq</a></p> <p><b>4/9/2025 PAB Regular Meeting Minutes:</b></p> <p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-04-09%20Regular%20Meeting%20MinutesFinal.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-04-09%20Regular%20Meeting%20MinutesFinal.pdf</a></p> <p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-04-09%20PAB%20Regular%20Meeting%20Pkt_Finalv2.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-04-09%20PAB%20Regular%20Meeting%20Pkt_Finalv2.pdf</a></p>	ODPA	The PAB requested that all Board requests be clearly reflected in the meeting minutes to ensure easier tracking and follow-up. <b>(56:39 - 56:55)</b>	Completed – ODPA drafted a memo with outstanding requests which will be presented by the ODPA during the 4/23 PAB meeting.
20	<p><b>4/9/2025 PAB Regular Meeting Recording:</b></p> <p><a href="https://youtu.be/HNdbV36FvB4?si=YBOS2cmP9aueS2Rq">https://youtu.be/HNdbV36FvB4?</a></p>	City Attorney's Office	The PAB requested that staff consult with the City Attorney to clarify a discrepancy regarding whether the municipal code	<p>Closed– This request has been closed out by Chair Cayetano.</p> <p><b>Municipal Code:</b> Ch. 2.04 City Council   Berkeley Municipal Code <a href="https://berkeley.municipal.codes/BMC/2.04_Art3">https://berkeley.municipal.codes/BMC/2.04_Art3</a></p>

	<p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-04-09%20Regular%20Meeting%20MinutesFinal.pdf">si=YBOS2cmP9aueS2Rg</a></p> <p><b>4/9/2025 PAB Regular Meeting Minutes:</b></p> <p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-04-09%20Regular%20Meeting%20MinutesFinal.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-04-09%20Regular%20Meeting%20MinutesFinal.pdf</a></p>		<p>requires annual renewal of MOUs. <b>(56:18 - 56:40)</b></p>	
<p>21</p>	<p><b>4/9/2025 PAB Regular Meeting Recording:</b></p> <p><a href="https://youtu.be/HNdbV36FvB4?si=YBOS2cmP9aueS2Rg">https://youtu.be/HNdbV36FvB4?si=YBOS2cmP9aueS2Rg</a></p> <p><b>4/9/2025 PAB Regular Meeting Minutes:</b></p> <p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-04-09%20Regular%20Meeting%20MinutesFinal.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-04-09%20Regular%20Meeting%20MinutesFinal.pdf</a></p>	<p>ODPA; BPD</p>	<p>The PAB requested that the Chair, Police Chief, and Director of Police Accountability collaborate to consolidate all Fair and Impartial Policing (FIP) data into a single document. <b>(1:08:55 - 1:10:15)</b></p>	<p>Open- The request is still active.</p> <p>There are multiple steps to the request and as highlighted in section 10.d.ii of the 4/23/25 PAB Regular meeting agenda packet, a joint letter from Chair Cayetano and Chief Louis was sent to Berkeley City Council Public Safety Committee.</p> <p><b>Joint Letter Link:</b></p> <p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-17%20PAB%20Regular%20Meeting%20Packet.pdf#page=73">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-04-17%20PAB%20Regular%20Meeting%20Packet.pdf#page=73</a></p>

SUPPLEMENTAL MATERIAL

Item 10.e.

ODPA Memorandum to the PAB Titled “2024 Berkeley Police Department (BPD) Controlled Equipment Report – Status Updates and Next Steps”



## MEMORANDUM

Date: April 21, 2025

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

From: Hansel A. Aguilar, Director of Police Accountability (DPA) *Ha*  
 Jose D. Murillo, ODPa Policy Analyst *JM*

Subject: 2024 Berkeley Police Department (BPD) Controlled Equipment Report – Status Updates and Next Steps

This memorandum is submitted to provide the PAB with a status update on their review of the BPD's 2024 Controlled Equipment Report, as mandated by Berkeley Municipal Code (BMC) 2.100.050, along with the documents they requested to support their review.

### Background:

Under BMC 2.100.050<sup>1</sup>, BPD is required to submit an annual report on the use of Controlled Equipment to the Police Accountability Board (PAB) within one year of approval, and annually thereafter by March 15, unless the PAB specifies an alternate date. The report must also be made publicly available on the Police Department's website for as long as the equipment remains in use. It should include descriptions and inventory numbers for each piece of Controlled Equipment, a summary of how the equipment was used (with "use" referring to deployment, not just placement), and a geographic breakdown of its usage. This includes the number of days or instances of deployment, along with whether those uses were authorized in the enforcement of a warrant or other court orders. Furthermore, the report must cover any complaints or concerns related to the equipment, the results of internal audits, any violations of policies, and the actions taken in response.

BMC 2.100.050.(B)(1) and (2) also requires the PAB to analyze whether "each piece of Controlled Equipment reported on has complied with the standards for approval set forth in Section 2.100.040." Section 2.100.040(C) sets forth three criteria that the PAB

<sup>1</sup> BMC 2.100.050: <https://berkeley.municipal.codes/BMC/2.100.050>

are required to consider. The PAB can only approve the “use” of Controlled Equipment if it determines:

- (a) The Controlled Equipment is needed and there is no practicably available alternative equipment which is not Controlled Equipment that is sufficient for the purposes.
- (b) The proposed Controlled Equipment Use Policy will safeguard the public’s welfare, safety, civil rights, and civil liberties.
- (c) The Controlled Equipment will not be used based on race, national origin, religion, sexual orientation, gender, gender identity, political viewpoint, or disability, or disproportionately impact any community or group.

If the PAB finds that any equipment does not meet these standards, it may recommend revocation of approval or propose modifications to the equipment use policies to address the non-compliance. Any recommendations for revocation are forwarded to the City Council. After the PAB’s review, the Police Department must submit the report to the City Council, indicating whether each piece of equipment is in compliance.

The PAB received the BPD’s report on February 27, 2025, and at their March 5, 2025, meeting<sup>2</sup>, voted to request additional information on specific incidents to further inform their review. In particular, the PAB requested details on the use of Light-Sound Diversionary Devices (LSDD/Flashbangs) and the Long-Range Acoustic Device (LRAD). On March 7, 2025, ODPA staff reached out via email to BPD after compiling a list of relevant records to assist the PAB’s review and requested the necessary documentation. Following several exchanges, ODPA staff and BPD discussed the release of these records and addressed concerns regarding their relevance to the review of the equipment report, as outlined by BMC 2.100.050.

BPD did not provide ODPA with the requested records that are necessary for the PAB to perform its oversight function outlined in BMC 2.100.050.(B)(1) and (2). In a response email, BPD outlined several factors that contributed to the delay, such as limited staffing, the administrative workload of reviewing a high volume of records, and the need to address confidentiality and officer safety concerns. They also noted challenges in providing raw data, such as body-worn camera footage or radio recordings, due to the extensive time and resources required for redaction, as well as the sensitivity of the information, which may be protected by privacy laws or tied to ongoing investigations. Additionally, BPD emphasized that providing incident-specific data might exceed the scope of the annual report process, which is designed to focus on aggregated data and summaries as per the ordinance. The department stated that the Annual Report was

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<sup>2</sup> PAB March 5, 2025 Regular Meeting Minutes: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-03-05%20Regular%20Meeting%20Minutes.v2.pdf>

prepared in accordance with the requirements of BMC Section 2.100.050 and must be submitted as mandated by the ordinance. In their email response, the BPD stated that the report cannot be delayed indefinitely while awaiting the Board's response, they expressed a willingness to engage in further discussions once the report has been submitted and reviewed by the Board.

Although BPD did not provide the raw data and reports requested by the PAB, they acknowledged the Board's responsibility to assess compliance and expressed a commitment to supporting the Board's review by offering context on how these tools are used. While the BPD asserted that specific tactical details could not be shared due to officer and public safety concerns inherent in tactical operations, the BPD provided general information about the use of these devices, especially in planned operations like search warrants. In response to the PAB's request for details on LSDD and LRAD use, the following information was shared:

- **Light-Sound Diversionary Devices (LSDD / Flashbangs):** LSDDs are sometimes used during high-risk operations, such as warranted searches where a potential threat is present. Their purpose is to create a brief sensory overload to distract and disorient potentially dangerous individuals, thereby enhancing the safety of officers and occupants during the initial moments of entry. Officers authorized to deploy LSDDs receive specialized training covering deployment techniques, situational assessment, and risk mitigation to protect individuals and property. This training also includes contingency planning for various scenarios that may arise in dynamic tactical situations.
- **Long Range Acoustic Device (LRAD):** The LRAD is primarily used for communication, particularly in situations like conducting search warrants at a location. It enables clear announcements and instructions to be delivered over long distances or through barriers where normal voice commands or public address systems might be ineffective. The goal is to ensure occupants are aware of the police presence, understand the instructions clearly (such as how to exit safely), and have the opportunity to comply, thereby improving the safety of everyone involved—occupants, officers, and bystanders.

BPD offered the Board an opportunity to meet with Captain Okies, their subject matter expert on special equipment, including flashbangs and LRADs, to provide detailed insights into the training, policies, and deployment considerations for these devices.

The BPD has indicated its intent to submit the 2024 Equipment Ordinance Report for inclusion on the agenda of the May 20, 2025, Regular City Council meeting to ensure timely compliance with the ordinance. BPD has requested that any materials the PAB wishes to include with the item be provided no later than May 1, 2025.

The ODPa notes that, under Section 2.100.050(B)(1), the PAB has 60 days from the date the BPD submits its annual report to place the report on the agenda of a regular meeting and determine whether each piece of Controlled Equipment complies with the standards for approval outlined in Section 2.100.040. Based on the BPD's submission date of February 27, 2025, this 60-day period to place the report on the agenda concludes on April 28, 2025. If the report had been submitted on March 15, 2025, as specified by the Ordinance, the 60-day deadline for the PAB's scheduling of the controlled equipment report would have concluded on May 14, 2025. In either scenario, the PAB has complied with the requirement under the BMC to agendaize the report within 60-days. While the ordinance establishes a clear deadline for the PAB to agendaize the report, Section 2.100.050(B)(3) states only that the BPD may submit the report to the City Council after the PAB has completed its review; it does not specify a required timeframe for doing so.

### **ODPA Preliminary Review of the 2024 Controlled Equipment Report**

As in previous years, to further assist the PAB in its review of the relevant report, the ODPa conducted a preliminary assessment to ensure the report complied with the basic requirements of BMC 2.100.050. The primary focus of this review was to verify that the specific elements outlined in the ordinance were present.

BMC Section 2.100.050(A)(1)(a) – 2.100.050(A)(1)(e)<sup>3</sup> outlines the minimum reporting requirements for the use of Controlled Equipment. These requirements are as follows:

- a. Production 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 area. 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.

<sup>3</sup> BMC 2.100.050: <https://berkeley.municipal.codes/BMC/2.100.050>

In the table below, the ODPa has summarized the findings of its review based on these requirements. The table provides an overview of whether the report addressed each of the outlined elements and highlights any areas where further clarification or information may be needed.

Table 1. Compliance Status Overview: Requirements of BMC 2.100.050		
Ordinance Section	Description	In compliance with the ordinance?
2.100.050(A)(1)(a)	Production descriptions for Controlled Equipment and inventory numbers of each product in the Police Department's possession.	Yes
2.100.050(A)(1)(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.	Yes
2.100.050(A)(1)(c)	If applicable, a breakdown of where Controlled Equipment was used geographically by individual police area. 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.	Yes
2.100.050(A)(1)(d)	A summary of any complaints or concerns received concerning Controlled Equipment.	Yes
2.100.050(A)(1)(e)	The results of any internal audits, any information about violations of Controlled Equipment Use Policies, and any actions taken in response.	Yes

### Additional Observations

During the PAB's review of the 2023 Controlled Equipment Report, the PAB voted to approve the BPD's report as presented, as it complied with the basic reporting requirements outlined in BMC 2.100.050. However, through that review, the PAB introduced its recommended methodology for assessing the use of controlled equipment, which it sought to implement in this iteration, including a review of specific incidents.

Additionally, the PAB suggested that the BPD enhance its transparency efforts by incorporating an interactive ArcGIS StoryMap focused on Controlled Equipment usage, similar to the approach used for documenting Use of Force instances, to foster greater community engagement and understanding. The BPD has not yet incorporated or developed an interactive ArcGIS StoryMap focused on Controlled Equipment usage.

## Next Steps

The PAB has several options moving forward regarding their review of the 2024 Controlled Equipment Report:

1. **Report Based Review** (Existing Practice)
  - a. **Approve the Report for Compliance:** The PAB approves the report and determines, based on the report, that each piece of Controlled Equipment reported on complies with the standards for approval set forth in Section 2.100.040.<sup>4</sup>
  - b. **Reject the Report for Lack of Compliance:** The PAB rejects the report on the grounds that it was unable to independently verify that each piece of Controlled Equipment complies with the approval standards outlined in Section 2.100.040.
2. **Incident Based Review**
  - a. **Recommend Revocation of Authorization of Specific Controlled Equipment:** If the PAB determines that any Controlled Equipment has not complied with the standards for approval set forth in Section 2.100.040, it shall either recommend revocation of the authorization for that piece of Controlled Equipment.
  - b. **Recommend Modification of Controlled Equipment Use Policy:** If the PAB determines that any Controlled Equipment has not complied with the standards for approval set forth in Section 2.100.040, it may recommend that the BPD modify the Controlled Equipment Use Policy in a manner that will resolve the lack of compliance.<sup>5</sup>
3. **Request BPD to Postpone Submission to City Council for a Later Meeting** Section 2.100.050(B)(1) establishes a 60-day timeframe within which the PAB must agendaize for discussion the Police Department's Controlled Equipment Annual Report for a regular meeting. Section 2.100.050(B)(3) specifies that the report may be submitted to the City Council only after the PAB has completed its review, but it does not provide a definite timeframe for the BPD's submission. While the PAB has completed its review within the required 60-day period, it may wish to include additional context or materials alongside its determination. To facilitate this, the PAB may request that the BPD delay submitting the report to the City Council.
4. **Subpoena records requested for review:** The PAB has requested relevant records as part of its duties under the BMC, but the BPD has not provided them.

<sup>4</sup> BMC 2.100.050(B)(1): <https://berkeley.municipal.codes/BMC/2.100.050>

<sup>5</sup> BMC 2.100.050(B)(2): <https://berkeley.municipal.codes/BMC/2.100.050>

The PAB may consider whether it is appropriate to exercise its power of subpoena under Berkeley City Charter Sections 125(3)(a)(1) and 125(20)(c) to issue a subpoena compelling the production of these records.

5. **Incorporate a Review of Prior Recommendations into the PAB Workplan:** BMC 2.100.040(F)(1)<sup>6</sup> states that the PAB shall determine, as part of its annual workplan, whether to include the review of any controlled equipment use policy. The PAB has not yet utilized this review process but may choose to do so for future reports. According to BMC 2.100.040(G)(2)<sup>7</sup>, the BPD is required to provide the PAB with a prioritized ranking of their controlled equipment, which the PAB can use when deciding the order in which to conduct its review.

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<sup>6</sup> BMC 2.100.040(F)(1): <https://berkeley.municipal.codes/BMC/2.100.040>

<sup>7</sup> BMC 2.100.040(G)(2): <https://berkeley.municipal.codes/BMC/2.100.040>